

## **KANSAS CHILD CARE LICENSING AND REGISTRATION LAWS**

### **Chapter 65. PUBLIC HEALTH**

#### **Article 5. MATERNITY CENTERS AND CHILD CARE FACILITIES**

##### **65-501. License or temporary permit required.**

It shall be unlawful for any person, firm, corporation or association to conduct or maintain a maternity center or a child care facility for children under 16 years of age without having a license or temporary permit therefor from the secretary of health and environment. Nothing in this act shall apply to:

- (a) A residential facility or hospital that is operated and maintained by a state agency as defined in K.S.A. 75-3701 and amendments thereto; or
- (b) a summer instructional camp that:
  - (1) Is operated by a Kansas educational institution as defined in K.S.A. 2000 Supp. 74-32,120, and amendments thereto, or a postsecondary educational institution as defined in K.S.A. 2000 Supp. 74-3201b, and amendments thereto;
  - (2) is operated for not more than five weeks;
  - (3) provides instruction to children, all of whom are 10 years of age and older; and
  - (4) is accredited by an agency or organization acceptable to the secretary of health and environment.

**History:** L. 1919, ch. 210, § 1; R.S. 1923, 65-501; L. 1974, ch. 352, § 85; L. 1978, ch. 236, § 1; L. 1985, ch. 209, § 1; L. 1994, ch. 279, § 4; L. 2001, ch. 101, § 1; April 26.

##### **65-502. Maternity center defined.**

"Maternity center" means a facility which provides delivery services for normal, uncomplicated pregnancies but does not include a medical care facility as defined by K.S.A. 65-425 and amendments thereto.

**History:** L. 1919, ch. 210, § 2; R.S. 1923, 65-502; L. 1994, ch. 279, § 5; July 1.

##### **65-503. Definitions relating to child care facilities.**

As used in this act:

- (a) "Child placement agency" means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care.

- (b) "Child care resource and referral agency" means a business or service conducted, maintained or operated by a person engaged in providing resource and referral services, including information of specific services provided by child care facilities, to assist parents to find child care.
- (c) (1) "Child care facility" means:
  - (A) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children related to the person by blood, marriage or legal adoption;
  - (B) a children's home, orphanage, maternity home, day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act;
  - (C) a child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or
  - (D) any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.
- (2) "Child care facility" shall not include a family day care home defined in K.S.A. 65-517 and amendments thereto.
- (d) "Person" means any individual, association, partnership, corporation, government, governmental subdivision or other entity.
- (e) "Boarding school" means a facility which provides 24-hour care to school age children, provides education as its primary function, and is accredited by an accrediting agency acceptable to the secretary of health and environment.

**History:** L. 1919, ch. 210, § 3; R.S. 1923, 65-503; L. 1978, ch. 236, § 2; L. 1978, ch. 237, § 2; L. 1980, ch. 184, § 1; L. 1983, ch. 140, § 45; L. 1994, ch. 279, § 6; L. 1998, ch. 166, § 1; July 1.

**65-504. Licenses; contents; limitations; posting; inspections; temporary permits; access to premises; temporary licenses; denial or revocation of license; procedure.**

- (a) The secretary of health and environment shall have the power to grant a license to a person to maintain a maternity center or child care facility for children under 16 years of

age. The license shall state the name of the licensee, describe the particular premises in or at which the business shall be carried on, whether it shall receive and care for women or children, and the number of women or children that may be treated, maintained, boarded or cared for at any one time. No greater number of women or children than is authorized in the license shall be kept on those premises and the business shall not be carried on in a building or place not designated in the license. The license shall be kept posted in a conspicuous place on the premises where the business is conducted. The secretary of health and environment shall grant no license in any case until careful inspection of the maternity center or child care facility shall have been made according to the terms of this act and until such maternity center or child care facility has complied with all the requirements of this act. Except as provided by this subsection, no license shall be granted without the approval of the secretary of social and rehabilitation services. The secretary of health and environment may issue, without the approval of the secretary of social and rehabilitation services, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial application for license. The secretary of health and environment may extend, without the approval of the secretary of social and rehabilitation services, the temporary permit to operate for an additional period not to exceed 90 days if an applicant is not in full compliance with the requirements of this act but has made efforts towards full compliance.

- (b)
  - (1) In all cases where the secretary of social and rehabilitation services deems it necessary, an investigation of the maternity center or child care facility shall be made under the supervision of the secretary of social and rehabilitation services or other designated qualified agents. For that purpose and for any subsequent investigations they shall have the right of entry and access to the premises of the center or facility and to any information deemed necessary to the completion of the investigation. In all cases where an investigation is made, a report of the investigation of such center or facility shall be filed with the secretary of health and environment.
  - (2) In cases where neither approval or disapproval can be given within a period of 30 days following formal request for such a study, the secretary of health and environment may issue a temporary license without fee pending final approval or disapproval of the center or facility.
- (c) Whenever the secretary of health and environment refuses to grant a license to an applicant, the secretary shall issue an order to that effect stating the reasons for such denial and within five days after the issuance of such order shall notify the applicant of the refusal. Upon application not more than 15 days after the date of its issuance a hearing on the order shall be held in accordance with the provisions of the Kansas administrative procedure act.

- (d) When the secretary of health and environment finds upon investigation or is advised by the secretary of social and rehabilitation services that any of the provisions of this act or the provisions of K.S.A. 59-2123 and amendments thereto are being violated, or that the maternity center or child care facility is maintained without due regard to the health, comfort or welfare of the residents, the secretary of health and environment, after giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act, shall issue an order revoking such license. The order shall clearly state the reason for the revocation.
- (e) If the secretary revokes or refuses to renew a license, the licensee who had a license revoked or not renewed shall not be eligible to apply for a license or for a certificate of registration to maintain a family day care home under K.S.A. 65-518 and amendments thereto for a period of one year subsequent to the date such revocation or refusal to renew becomes final.
- (f) Any applicant or licensee aggrieved by a final order of the secretary of health and environment denying or revoking a license under this act may appeal the order in accordance with the act for judicial review and civil enforcement of agency actions.

**History:** L. 1919, ch. 210, § 4; R.S. 1923, 65-504; L. 1951, ch. 358, § 1; L. 1961, ch. 285, § 1; L. 1974, ch. 352, § 86; L. 1978, ch. 236, § 3; L. 1982, ch. 258, § 3; L. 1983, ch. 147, § 2; L. 1984, ch. 313, § 93; L. 1985, ch. 209, § 2; L. 1988, ch. 239, § 1; L. 1989, ch. 188, § 1; L. 1990, ch. 145, § 37; L. 1991, ch. 184, § 1; L. 1994, ch. 279, § 7; L. 2000, ch. 137, § 1; July 1.

**65-505. License fees.**

- (a) The annual fee for a license to conduct a maternity center or child care facility shall be fixed by the secretary of health and environment by rules and regulations in an amount not exceeding the following:
  - (1) For a maternity center, \$75;
  - (2) for a child placement agency, \$75;
  - (3) for a child care resource and referral agency, \$75; and
  - (4) for any other child care facility, \$35 plus \$1 times the maximum number of children authorized under the license to be on the premises at any one time.

The license fee shall be paid to the secretary of health and environment when the license is applied for and annually thereafter. The fee shall not be refundable. No fee shall be charged for a license to conduct a home for children which is a family foster home as defined in K.A.R. 28-4-311 and amendments thereto. Fees in effect under this subsection

- (a) immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary of health and environment by rules and regulations under this subsection.
- (b) Any person who fails to renew the person's license within the time required by rules and regulations of the secretary shall pay to the secretary a late renewal fee of \$10.
- (c) Any licensee applying for an amended license shall pay to the secretary of health and environment a fee established by rules and regulations of the secretary in an amount not exceeding \$35.
- (d) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

**History:** L. 1919, ch. 210, § 5; R.S. 1923, 65-505; L. 1974, ch. 352, § 87; L. 1978, ch. 236, § 4; L. 1982, ch. 259, § 1; L. 1985, ch. 210, § 2; L. 1986, ch. 230, § 1; L. 1991, ch. 184, § 2; L. 1994, ch. 279, § 8; L. 2001, ch. 5, § 217, July 1.

**65-506. Notice of issuance, suspension or revocation of license; notice to parents or guardians of enrollees of suspension, revocation or denial; unlicensed placements prohibited.**

The secretary of health and environment shall serve notice of the issuance, suspension or revocation of a license to conduct a maternity center or child care facility or the issuance, suspension or revocation of a certificate of registration for a family day care home to the secretary of social and rehabilitation services, juvenile justice authority, department of education, office of the state fire marshal, county, city-county or multi-county department of health and to any licensed child placement agency or licensed child care resource and referral agency serving the area where the center or facility is located. A maternity center or child care facility that has had a license suspended, revoked or denied by the secretary of health and environment or a family day care home that has had a certificate of registration suspended, revoked or denied by the secretary of health and environment shall notify in writing the parents or guardians of the enrollees of the suspension, revocation or denial. Neither the secretary of social and rehabilitation services nor any other person shall place or cause to be placed any maternity patient or child under 16 years of age in any maternity center or child care facility not licensed by the secretary of health and environment or family day care home not holding a certificate of registration from the secretary of health and environment.

**History:** L. 1919, ch. 210, § 6; R.S. 1923, 65-506; L. 1951, ch. 358, § 2; L. 1974, ch. 352, § 88; L. 1976, ch. 145, § 211; L. 1978, ch. 236, § 5; L. 1986, ch. 230, § 2; L. 1994, ch. 279, § 9; L. 2000, ch. 127, § 1; July 1.

**65-507. Records of maternity centers; confidentiality.**

- (a) Each maternity center licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment and the secretary of social and rehabilitation services which shall include the name of every patient, together with the patient's place of residence during the year preceding admission to the center and the name and address of the attending physician. Each child care facility licensee shall keep a record upon forms prescribed and provided by the secretary of health and environment which shall include the name and age of each child received and cared for in the facility; the name of the physician who attended any sick children in the facility, together with the names and addresses of the parents or guardians of such children; and such other information as the secretary of health and environment or secretary of social and rehabilitation services may require. Each maternity center licensee and each child care facility licensee shall apply to and shall receive without charge from the secretary of health and environment and the secretary of social and rehabilitation services forms for such records as may be required, which forms shall contain a copy of this act.
- (b) Information obtained under this section shall be confidential and shall not be made public in a manner which would identify individuals.

**History:** L. 1919, ch. 210, § 7; R.S. 1923, 65-507; L. 1951, ch. 358, § 3; L. 1974, ch. 352, § 89; L. 1978, ch. 236, § 6; L. 1994, ch. 279, § 10; July 1.

**65-508. Equipment, supplies, accommodations; immunizations.**

- (a) Any maternity center or child care facility subject to the provisions of this act shall: (1) Be properly heated, plumbed, lighted and ventilated; (2) have plumbing, water and sewerage systems which conform to all applicable state and local laws; and (3) be operated with strict regard to the health, comfort, safety and social welfare of the residents.
- (b) Every maternity center or child care facility shall furnish or cause to be furnished for the use of each resident and employee individual towel, wash cloth, comb and individual drinking cup or sanitary bubbling fountain, and toothbrushes for all other than infants, and shall keep or require such articles to be kept at all times in a clean and sanitary condition. Every maternity center or child care facility shall comply with all applicable fire codes and rules and regulations of the state fire marshal.
- (c) The secretary of health and environment with the cooperation of the secretary of social and rehabilitation services shall develop and adopt rules and regulations for the operation and maintenance of maternity centers and child care facilities. The rules and regulations for operating and maintaining maternity centers and child care facilities shall be designed to promote the health, safety and welfare of the residents who are to be served in such facilities by ensuring safe and adequate physical surroundings, healthful food, supervision

and care of the residents by capable, qualified persons of sufficient number, an adequate program of activities and services and such appropriate parental participation as may be feasible under the circumstances. Boarding schools are excluded from requirements regarding the number of qualified persons who must supervise and provide care to residents.

- (d) Each child cared for in a child care facility, including children of the person maintaining the facility, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a child care facility shall maintain a record of each child's immunizations and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a child care facility shall not have such person's license revoked solely for the failure to have or to maintain the immunization records required by this subsection.
- (e) The immunization requirement of subsection (d) shall not apply if one of the following is obtained:
  - (1) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or
  - (2) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.

**History:** L. 1919, ch. 210, § 8; R.S. 1923, 65-508; L. 1951, ch. 358, § 4; L. 1974, ch. 352, § 90; L. 1978, ch. 236, § 7; L. 1992, ch. 55, § 2; L. 1994, ch. 279, § 11; L. 1995, ch. 183, § 9; L. 1998, ch. 166, § 2; July 1.

**65-510. Unlawful for child care facility to care for adults; exceptions.**

It shall be unlawful for any child care facility to receive or care for any adult except as authorized by rules and regulations adopted by the secretary of health and environment.

**History:** L. 1919, ch. 210, § 10; R.S. 1923, 65-510; L. 1965, ch. 369, § 2; L. 1972, ch. 228, § 17; L. 1978, ch. 236, § 8; L. 1988, ch. 240, § 1; L. 1994, ch. 279, § 12; July 1.

**65-512. Inspections.**

It is hereby made the duty of the secretary of health and environment to inspect or cause to be inspected at least once every 12 months every maternity center or child care facility, and for that purpose it shall have the right of entry and access thereto in every department and to every place in the premises, shall call for and examine the records which are required to be kept by the provisions of this act and shall make and preserve a record of every inspection. The licensee shall

give all reasonable information to the authorized agent of the secretary of health and environment and shall afford every reasonable facility for viewing the premises and seeing the patients or children therein. No such patient or child without the consent of the patient or child shall be required to be interviewed by any agent unless the agent is an authorized person or a licensed physician.

**History:** L. 1919, ch. 210, § 12; R.S. 1923, 65-512; L. 1974, ch. 352, § 91; L. 1975, ch. 52, § 22; L. 1978, ch. 236, § 9; L. 1986, ch. 230, § 5; L. 1994, ch. 279, § 13; July 1.

**65-513. Changes or alterations required to comply with law; notice; duty of licensee.**

Whenever an authorized agent of the secretary of health and environment or secretary of social and rehabilitation services finds a maternity center or child care facility is not being conducted according to law, it shall be the duty of such agent to notify the licensee in writing of such changes or alterations as the agent determines necessary in order to comply with the requirements of the law, and the agent shall file a copy of such notice with the secretary of health and environment. It shall thereupon be the duty of the licensee to make such changes or alterations as are contained in the written notice within five days from the receipt of such notice. Notice shall be given in accordance with the provisions of the Kansas administrative procedure act.

**History:** L. 1919, ch. 210, § 13; R.S. 1923, 65-513; L. 1951, ch. 358, § 5; L. 1974, ch. 352, § 92; L. 1978, ch. 236, § 10; L. 1984, ch. 313, § 94; L. 1994, ch. 279, § 14; July 1.

**65-514. Violations of article 5 of chapter 65; penalties; notice and hearing.**

Any person, firm, corporation or association who violates the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$5 nor more than \$50. Each and every day that the person fails or refuses to comply shall be deemed a separate offense under the provisions of article 5 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto. If for 30 days after any final conviction for such violation or revocation of license the person still fails or refuses to comply with the orders in the notice under K.S.A. 65-513 and amendments thereto, upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the building or premises where such home is conducted may be closed until all provisions of this act shall have been complied with.

**History:** L. 1919, ch. 210, § 14; R.S. 1923, 65-514; L. 1974, ch. 352, § 93; L. 1984, ch. 313, § 95; L. 1989, ch. 189, § 1; July 1.

**65-515. Prosecutions.**

The county attorney of each county in this state is hereby authorized and required, upon complaint of any authorized agent of the secretary of health and environment, to file complaint and prosecute to the final determination all actions or proceedings against any person under the provisions of this act.

**History:** L. 1919, ch. 210, § 15; R.S. 1923, 65-515; L. 1974, ch. 352, § 94; July 1.



**65-516. Restrictions on persons maintaining or residing, working or volunteering at child care facility or family day care home.**

- (a) No person shall knowingly maintain a child care facility or maintain a family day care home if, in the child care facility or family day care home, there resides, works or regularly volunteers any person who:
- (1)
    - (A) Has a felony conviction for a crime against persons,
    - (B) has a felony conviction under the uniform controlled substances act,
    - (C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto or a conviction of an attempt under K.S.A. 21-3301 and amendments thereto to commit any such act, or
    - (D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;
  - (2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto, or is any act described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;
  - (3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse as validated by the department of social and rehabilitation services pursuant to K.S.A. 38-1523 and amendments thereto and
    - (A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the department of social and rehabilitation services, or
    - (B) the record has not been expunged pursuant to rules and regulations adopted by the secretary of social and rehabilitation services;
  - (4) has had a child declared in a court order in this or any other state to be deprived or a child in need of care based on an allegation of physical, mental or emotional abuse or neglect or sexual abuse;
  - (5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 38-1581 through 38-1584, and amendments thereto, or a similar statute of other states;
  - (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and

amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 38-1635 and amendments thereto involving a charge of child abuse or a sexual offense; or

- (7) has infectious or contagious disease.
- (b) No person shall maintain a child care facility or a family day care home if such person has been found to be a disabled person in need of a guardian or conservator, or both.
- (c) Any person who resides in a child care facility or family day care home and who has been found to be a disabled person in need of a guardian or conservator, or both, shall be counted in the total number of children allowed in care.
- (d) In accordance with the provisions of this subsection (d), the secretary shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information in the possession of the Kansas bureau of investigation and any report of investigations as authorized by subsection (e) of K.S.A. 38-1523 and amendments thereto in the possession of the department of social and rehabilitation services or court of this state concerning persons working, regularly volunteering or residing in a child care facility or a family day care home. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 65-516 and 65-519 and amendments thereto.
- (e) No child care facility or family day care home or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.
- (f) For the purpose of subsection (a)(3), an act of abuse or neglect shall not be considered to have been validated by the department of social and rehabilitation services unless the alleged perpetrator has:
  - (1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and
  - (2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the act for judicial review and civil enforcement of agency actions.

**History:** L. 1980, ch. 184, § 2; L. 1982, ch. 259, § 2; L. 1983, ch. 140, § 46; L. 1984, ch. 225, § 1; L. 1985, ch. 210, § 1; L. 1987, ch. 233, § 1; L. 1988, ch. 232, § 10; L. 1991, ch. 185, § 1; L. 1994, ch. 279, § 15; L. 1996, ch. 229, § 117; July 1, 1997.

**65-517. Family day care home defined.**

- (a) "Family day care home" means a place maintained for the purpose of providing children with food or lodging, or both, away from such children's home or homes, for less than 24 hours a day, if:
  - (1) Not more than six of the children cared for at such place are less than 16 years of age; and
  - (2) not more than three of the children cared for at such place are less than 18 months of age.
- (b) Any child of a person maintaining a place referred to in subsection (a) shall count toward the limitations of subsection (a) if such child is less than 12 years of age and is cared for at such place.
- (c) A person shall not be considered to be maintaining a family day care home as defined in subsection (a), if only children who are related by blood, marriage or legal adoption to such person are cared for.

**History:** L. 1980, ch. 184, § 3; L. 1994, ch. 279, § 16; July 1.

**65-518. Registration of family day care homes; optional licensure.**

Any person maintaining a family day care home shall register such home with the secretary of health and environment on forms furnished by the secretary. In lieu of registration, a person maintaining a family day care home may seek licensure for such home as a child care facility under article 5 of chapter 65 of Kansas Statutes Annotated and amendments to the provisions thereof and supplemental thereto.

**History:** L. 1980, ch. 184, § 4; L. 1994, ch. 279, § 17; July 1.

**65-519. Certificate of registration; conditions; application for; immunizations; renewal; fees.**

- (a) The secretary shall issue a certificate of registration to any person who:
  - (1) Applies for registration on forms furnished by the secretary;
  - (2) attests to the safety of the family day care home for the care of children;
  - (3) submits a fee of not to exceed \$15 as established by rules and regulations of the secretary of health and environment payable to the secretary of health and environment; and
  - (4) certifies that no person described in subsection (a)(1), (2), (3), (4), (5) or (6) of K.S.A. 65-516 and amendments thereto resides, works or volunteers in the family

day care home. The fee in effect under this subsection (a) immediately prior to the effective date of this act shall continue in effect on and after the effective date of this act until a different fee is established by the secretary of health and environment by rules and regulations under this subsection.

- (b) The secretary shall furnish each applicant for registration a family day care home safety evaluation form to be completed by the applicant and submitted with the registration application.
- (c)
  - (1) Each child cared for in a family day care home, including children of the person maintaining the home, shall be required to have current such immunizations as the secretary of health and environment considers necessary. The person maintaining a family day care home shall maintain a record of each child's immunizations, and shall provide to the secretary of health and environment such information relating thereto, in accordance with rules and regulations of the secretary, but the person maintaining a family day care home shall not have such person's certificate of registration revoked solely for the failure to have or to maintain the immunization records required by this subsection.
  - (2) The immunization requirement of subsection (c)(1) shall not apply if one of the following is obtained:
    - (A) Certification from a licensed physician stating that the physical condition of the child is such that immunization would endanger the child's life or health; or
    - (B) a written statement signed by a parent or guardian that the parent or guardian is an adherent of a religious denomination whose teachings are opposed to immunizations.
- (d) The secretary of health and environment shall provide to each person maintaining a registered family day care home a list of the requirements for registration of family day care homes. The person maintaining a family day care home shall provide a copy of such list to the parent or guardian of each child cared for in such home and shall maintain on the premises a copy of the list which has been signed and dated by the parent or guardian.
- (e) The certificate of registration shall be renewed annually in the same manner provided for in this section.
- (f) The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such

remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

**History:** L. 1980, ch. 184, § 5; L. 1982, ch. 259, § 3; L. 1983, ch. 140, § 47; L. 1984, ch. 225, § 2; L. 1986, ch. 230, § 3; L. 1992, ch. 55, § 1; L. 1994, ch. 279, § 18; L. 1995, ch. 183, § 10; L. 2001, ch. 5, § 218; July 1.

**65-520. Same; complaints against registrant.**

A certificate of registration shall be in force for one year after the date of issuance unless revoked pursuant to K.S.A. 65-521. The certificate shall specify that the registrant may operate a family day care home for six or fewer children. This section shall not be construed to limit the right of the secretary to enter a registered family day care home for the purpose of assessing compliance with K.S.A. 65-516 to 65-522, inclusive, after receiving a complaint against the registrant of such home.

**History:** L. 1980, ch. 184, § 6; July 1.

**65-521. Denial, revocation or nonrenewal of certificate of registration; notice and hearing; application for certificate of registration or licensure after revocation or refusal to renew.**

- (a) The secretary may deny, revoke or refuse to renew a certificate of registration upon a determination by the secretary that the registrant falsified information on the application or willfully and substantially has violated K.S.A. 65-516 through 65-522, and amendments thereto. The secretary shall not revoke or refuse to renew any certificate without first giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act.
- (b) If the secretary revokes or refuses to renew a certificate of registration, the registrant who has had a certificate of registration revoked or not renewed shall not be eligible to apply for a certificate of registration or for a license to maintain a child care facility under K.S.A. 65-504 and amendments thereto for a period of one year subsequent to the date such revocation or refusal to renew becomes final.

**History:** L. 1980, ch. 184, § 7; L. 1984, ch. 313, § 96; L. 1986, ch. 230, § 4; L. 1988, ch. 239, § 2; L. 1989, ch. 188, § 2; L. 1994, ch. 279, § 19; July 1.

**65-522. Registration; rules and regulations.**

The secretary shall adopt rules and regulations to implement the registration provisions of K.S.A. 65-516 to 65-522, inclusive.

**History:** L. 1980, ch. 184, § 8; July 1.

**65-523. Grounds for suspension of license, certificate of registration or temporary permit.**

The secretary may suspend any license, certificate of registration or temporary permit issued

under the provisions of K.S.A. 65-501 through 65-522, and amendments thereto, upon any of the following grounds and in the manner provided in this act:

- (a) Violation by the licensee, registrant or holder of a temporary permit of any provision of this act or of the rules and regulations promulgated under this act;
- (b) aiding, abetting or permitting the violating of any provision of this act or of the rules and regulations promulgated under this act;
- (c) conduct in the operation or maintenance, or both the operation and maintenance, of a child care facility or family day care home which is inimical to health, welfare or safety of either an individual in or receiving services from the facility or home or the people of this state;
- (d) the conviction of a licensee, registrant or holder of a temporary permit, at any time during licensure or registration or during the time the temporary permit is in effect, of crimes as defined in K.S.A. 65-516 and amendments thereto; and
- (e) a third or subsequent violation by the licensee, registrant or holder of a temporary permit of subsection (b) of K.S.A. 2000 Supp. 65-530 and amendments thereto.

**History:** L. 1985, ch. 209, § 3; L. 1994, ch. 279, § 20; July 1.

**65-524. Suspension of license, certificate of registration or temporary permit prior to hearing; procedure.**

The secretary may suspend any license, certificate of registration or temporary permit issued under the provisions of K.S.A. 65-501 through 65-522, and amendments thereto, prior to any hearing when, in the opinion of the secretary, the action is necessary to protect any child in the child care facility or family day care home from physical or mental abuse, abandonment or any other substantial threat to health or safety. Administrative proceedings under this section shall be conducted in accordance with the emergency adjudicative proceedings of the Kansas administrative procedure act and in accordance with other relevant provisions of the Kansas administrative procedure act.

**History:** L. 1985, ch. 209, § 4; L. 1994, ch. 279, § 21; July 1.

**65-525. Disclosure of certain information prohibited, exceptions; consent to disseminate certain information required.**

- (a) Records in the possession of the department of health environment or its agents regarding child care facilities, maternity centers or family day care homes shall not be released publicly in a manner that would identify individuals, unless required by law.

- (b) Records containing the name, address and telephone number of a child care facility, maternity center or family day care home in the possession of the department of health and environment or its agents shall not be released publicly unless required by law.
- (c) Records that cannot be released by subsection (a) or (b) may be released to: (1) An agency or organization authorized to receive notice under K.S.A. 65-506, and amendments thereto; (2) a criminal justice agency; (3) any state or federal agency that provides child care services, funding for child care or child protective services; (4) any federal agency for the purposes of compliance with federal funding requirements; (5) any local fire department; (6) any child and adult care food program sponsoring agency; or (7) any local disaster agency.
- (d) Any state or federal agency or any person receiving records under subsection (a) or (b) shall not disseminate the records without the consent of the person whose records will be disseminated unless required by law. Any state or federal agency or any person receiving records under subsection (e) may disseminate the information contained in the records without the consent of the person whose records will be disseminated.
- (e) The secretary of health and environment may release the name, address and telephone number of a maternity center, child care facility or family day care home when the secretary determines that the release of the information is necessary to protect the health, safety or welfare of the public or the patients or children enrolled in the maternity center, child care facility or family day care home.
- (f) Any records under subsection (a) or (b) shall be available to any member of the standing committee on appropriations of the house of representatives or the standing committee on ways and means of the senate carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Except in limited conditions established by of the members of such committee, records received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate. Such records shall not identify individuals but shall include data and contract information concerning specific facilities.
- (g) In any hearings conducted under the licensing or regulation provisions of K.S.A. 65,501 et seq. and amendments thereto, the hearing officer may close the hearing to the public to prevent public disclosure of matters relating to persons restricted by other laws.

**History:** L. 1985, ch. 201, § 1; L. 1996, ch. 229, § 157; L. 2000, ch. 127, § 2; L. 2001, ch. 190, § 1; July 1.

**65-526. Civil fine assessed against licensee or registrant; limitations.**

- (a) The secretary of health and environment, in addition to any other penalty prescribed under article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee or registrant for each violation of such provisions or rules and regulations adopted pursuant

thereto which affect significantly and adversely the health, safety or sanitation of children in a child care facility or family day care home. Each civil fine assessed under this section shall not exceed \$500. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

- (b) All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

**History:** L. 1988, ch. 239, § 3; L. 1994, ch. 279, § 22; L. 1999, ch. 19, § 1; L. 2001, ch. 5, § 219; July 1.

**65-527. Child care programs in recreation centers and schools; licensing of.**

- (a) As used in this section:

- (1) "Child care program" means a day care center, group day care home or day care home.
- (2) "Recreation center" means any building used by a political or taxing subdivision of this state, or by an agency thereof, for recreation programs which serve children who are 16 years of age or younger.
- (3) "School" means any building used by a unified school district or an accredited nonpublic school for student instruction or attendance of pupils enrolled in kindergarten or any of the grades 1 through 6.

- (b) No license for a child care program for school age children shall be denied on the basis that the building does not meet requirements for licensure if the building:

- (1) Is a recreation center or school;
- (2) complies, during all hours of operation of the child care program, with the Kansas fire prevention code or a building code compliance with which is by law deemed to be compliance with the Kansas fire prevention code;
- (3) subject to subsection (c), complies, during all hours of operation of the child care program, with all local building code provisions that apply to recreation centers, if the building is a recreation center, or schools, if the building is a school; and
- (4) as a recreation center or school, is used by school age children and the same age children are cared for in the child care program.

- (c) In the case of an inconsistency in standards with which a building is required to comply



pursuant to subsections (b)(2) and (b)(3), the standards provided by subsection (b)(2) shall control.

**History:** L. 1992, ch. 125, § 1; July 1.

**65-528. Child care policy of state; desired outcome.**

- (a) The desired outcome of the child care policy of the state of Kansas is that families be able to fulfill their roles as primary child care givers and educators of young children by having access to high quality, affordable child care. The following principles shall guide development and implementation of state policy to achieve that outcome:
  - (1) Family self-sufficiency. A stable source of child care is a critical ingredient to economic self-sufficiency. Child care policies and programs must facilitate a smooth transition into the work force for parents and a rich and stable environment for children.
  - (2) Investment in children. Child care is a critical investment that affects a child's readiness to learn. High quality child care programs recognize and implement good early childhood practices.
  - (3) Consumer orientation and education. Child care policies and programs must be responsive to the changing needs of families and educate families about available options, identifying quality programs and selecting appropriate care.
  - (4) Accessibility. High quality child care must be available to any family seeking care regardless of where the family lives or the special needs of the child. A centralized place in local communities must be available to facilitate parents' access to child care.
  - (5) Affordability. High quality child care must be available on a sliding scale basis, with families contributing based on ability to pay.
  - (6) Diversity. It is the goal of the state to strive wherever possible to provide child care in an integrated setting where children with various needs and of various income levels and cultures are cared for together.
  - (7) Efficient, coordinated administration and support for infrastructure. Child care programs must be coordinated to ensure the most effective use of federal, state, local and private funds. State child care agencies and policies must support the orderly development of a high quality child care system working with local and private providers.
- (b) Any state agency involved in implementing any part of the state's child care policy shall develop appropriate measures of progress toward achievement of the stated outcome

under the oversight of the joint committee on children and families in accordance with K.S.A. 46-2001 et seq. and amendments thereto.

**History:** L. 1994, ch. 279, § 1; July 1.

**65-529. Continuation of effect of license, registration or permit.**

Any license, certificate of registration or temporary permit which was issued prior to the effective date of this act and which is in effect on the effective date of this act shall continue in effect until the expiration thereof, unless suspended or revoked prior to such time.

**History:** L. 1994, ch. 279, § 23; July 1.

**65-530. Smoking prohibited in day care homes.**

(a) As used in this section:

- (1) "Day care home" means a day care home as defined under Kansas administrative regulation 28-4-113, a group day care home as defined under Kansas administrative regulation 28-4-113 and a family day care home as defined under K.S.A. 65-517 and amendments thereto.
  - (2) "Smoking" means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco.
- (b) Smoking within any room, enclosed area or other enclosed space of a facility or facilities of a day care home during a time when children who are not related by blood, marriage or legal adoption to the person who maintains the home are being cared for, as part of the operation of the day care home, within the facility or facilities is hereby prohibited. Nothing in this subsection shall be construed to prohibit smoking on the premises of the day care home outside the facility or facilities of a day care home, including but not limited to porches, yards or garages.
- (c) Each day care home registration certificate or license shall contain a statement in bold print that smoking is prohibited within a room, enclosed area or other enclosed space of the facility or facilities of the day care home under the conditions specified in subsection (b). The statement shall be phrased in substantially the same language as subsection (b). The registration certificate or license shall be posted in a conspicuous place in the facility or facilities.
- (d) The secretary of health and environment may levy a civil fine under K.S.A. 65-526 and amendments thereto against any day care home for a first or second violation of this section. A third or subsequent violation shall be subject to the provisions of K.S.A. 65-523 and amendments thereto.

**History:** L. 1994, ch. 279, § 26; July 1

**65-531. Immunization information and records; disclosure.**

- (a) Except as provided further, information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508 and 65-519, and amendments thereto, may be disclosed and exchanged without a parent or guardian's written release authorizing such disclosure, to the following, who need to know such information to assure compliance with state statutes or to achieve age appropriate immunization status for children:
  - (1) Employees of public agencies or departments;
  - (2) health records staff of child care facilities and family day care homes, including, but not limited to, facilities licensed by the secretary of health and environment;
  - (3) persons other than public employees who are entrusted with the regular care of those under the care and custody of a state agency including, but not limited to, operators of day care facilities, group homes, residential care facilities and adoptive or foster homes; and
  - (4) health care professionals.
- (b) Notwithstanding K.S.A. 60-427 and amendments thereto or any other Kansas statute which provides for privileged information between a patient and a health care provider, there shall be no privilege preventing the furnishing of information and records as authorized by this section by any health care provider.
- (c) Information and records which pertain to the immunization status of persons against childhood diseases as required by K.S.A. 65-508 and 65-519, and amendments thereto, whose parent or guardian has submitted a written statement of religious objection to immunization as provided in K.S.A. 65-508 or 65-519, and amendments thereto, may not be disclosed or exchanged without a parent or guardian's written release authorizing such disclosure.

**History:** L. 1996, ch. 229, § 156; July 1.

**OTHER RELATED STATUTES**

**Article 21. Kansas Adoption and Relinquishment Act**

**59-2123. Certain advertisements and offers relating to adopting and placing children prohibited; definitions.**

- (a) Except as otherwise provided in this section:
  - (1) No person shall advertise that such person will adopt, find an adoptive home for a child or otherwise place a child for adoption;
  - (2) no person shall offer to adopt, find a home for or otherwise place a child as an

inducement to a woman to come to such person's maternity center during pregnancy or after delivery; and

- (3) no person shall offer to adopt, find a home for or otherwise place a child as an inducement to any parent, guardian or custodian of a child to place such child in such person's home, institution or establishment.
- (b) The provisions of subsection (a)(1) shall not apply to a licensed child placement agency operating as authorized by Kansas law or to the department of social and rehabilitation services.
- (c) As used in this section:
  - (1) "Advertise" means to communicate by newspaper, radio, television, handbills, placards or other print, broadcast or electronic medium.
  - (2) "Person" means an individual, firm, partnership, corporation, joint venture or other association or entity.
  - (3) "Maternity center" means the same as provided in K.S.A. 65-502 and amendments thereto.
- (d) Any person who violates the provisions of this section shall be guilty of a class C misdemeanor.

**History:** L. 1990, ch. 145, § 13; L. 1994, ch. 279, § 3; July 1.

## **Article 82. Organization, Powers and Finances of Boards of Education**

### **72-8236. Child care facilities; authority to establish, operate, and maintain; fees, collection and disposition.**

- (a) The board of education of any school district may:
  - (1) Establish, operate and maintain a child care facility;
  - (2) enter into cooperative or interlocal agreements with one or more other boards for the establishment, operation and maintenance of a child care facility;
  - (3) contract with private, nonprofit corporations or associations or with any public or private agency or institution, whether located within or outside the state, for the establishment, operation and maintenance of a child care facility; and
  - (4) prescribe and collect fees for providing care at a child care facility.
- (b) Fees for providing care at a child care facility established under authority of this section shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the child care

facility. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the school district finance and quality performance act and may be expended whether the same have been budgeted or not and amounts so expended shall not be considered operating expenses.

- (c) Every school district which establishes, operates and maintains a child care facility shall be subject to the provisions contained in article 5 of chapter 65 of Kansas Statutes Annotated.
- (d) As used in this section, the term "child" means any child who is three years of age or older, and any infant or toddler whose parent or parents are pupils or employees of a school district which establishes, operates and maintains, or cooperates in the establishment, operation and maintenance of, a child care facility under authority of this act.

**History:** L. 1993, ch. 186, § 1; July 1.

## SECURE RESIDENTIAL TREATMENT FACILITY REGULATIONS

### **K.A.R. 28-4-330. Definitions.**

- (a) “Administrator” means a person employed by a secure residential treatment facility who is responsible for the overall administration of the facility.
- (b) “Basement” means each area with a floor level more than 30 inches below ground level on all four sides.
- (c) “Clinical director” means a person who is employed by the secure residential treatment facility, who is responsible for the overall treatment program, and who is approved by the Kansas behavioral sciences regulatory board, Kansas board of nursing, or Kansas board of healing arts to diagnose and treat mental and behavioral disorders.
- (d) “Corporal punishment” means an activity directed toward modifying a youth's behavior by means of adverse physical contact, including spanking with the hand or an implement, slapping, swatting, pulling hair, or any similar activity.
- (e) “Department” means the Kansas department of health and environment.
- (f) “Discipline” means the ongoing process of helping youth develop inner control so that they can manage their own behavior in a socially approved manner.
- (g) “Individual plan of care” means a written, goal-oriented treatment plan to enable a youth to function in a less restrictive environment, including the planned programs, therapies, and activities designed to move the individual to a level of functioning consistent with living in a community setting.
- (h) “Involuntary seclusion” means the removal of a youth from other youths to a separate locked room or quarters.
- (i) “License” means a document issued by the Kansas department of health and environment that authorizes a licensee to operate and maintain a secure residential treatment facility.
- (j) “Program” means the comprehensive and coordinated activities and services providing for the care, protection, and treatment of youth.
- (k) “Program director” means the staff person responsible for the oversight and implementation of the program.
- (l) “Restraint” means the application of any devices, other than human force alone, to any part of the body of a youth in care for the purpose of preventing the youth from causing injury to oneself or others.

- (m) “Secretary” means the secretary of the Kansas department of health and environment.
- (n) “Secure facility” means a child care facility that is operated or structured to ensure that the entrances and exits from the facility are under the exclusive control of the staff.
- (o) “Secure residential treatment facility” means a secure facility operated or structured to provide a therapeutic residential care alternative to psychiatric hospitalization for five or more youth with a diagnosis of a severe emotional, behavioral, or psychiatric condition.
- (p) “Treatment” means comprehensive, individualized, goal-directed, therapeutic services provided to youth.
- (q) “Treatment team” means the secure residential treatment facility’s interdisciplinary personnel responsible for the development, implementation, and evaluation of each youth’s individualized plan of care.
- (r) “Youth” means a person or persons who are admitted to a secure residential treatment facility for treatment.
- (s) “Youth care staff” means the persons employed by the secure residential treatment facility to supervise the youth.
- (t) “Youth record” means any electronic or written document concerning a youth admitted to a secure residential treatment facility that is created or obtained by an employee of the secure residential treatment facility.

(Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)

**K.A.R. 28-4-331. Licensing procedures.**

- (a) A person shall not operate a secure residential treatment facility that provides treatment to youth under 16 years of age, unless issued a license by the department.
- (b) Each person desiring to operate a secure residential treatment facility that provides treatment to youth under 16 years of age shall submit the following:
  - (1) An application for a license on forms provided by the department; and
  - (2) the license fee as specified in K.S.A. 65-505, and amendments thereto.
- (c) In addition to the application for a license, each applicant shall submit the following:
  - (1) A written proposal that details the following:
    - (A) The purpose of the facility;

- (B) the administration plan for the program, including an organizational chart;
    - (C) the financing plan for the program;
    - (D) staffing for the program, including job descriptions; and
    - (E) services and treatment to be offered, including the number, age range, and sex of youth to be served;
  - (2) a copy of the written notification that was submitted to the school district where the facility is located, including the following:
    - (A) The planned opening date;
    - (B) the number, age range, and anticipated special education needs of the residents to be served; and
    - (C) a request for on-site educational services or a request for approval of proposed alternative formal schooling to be provided by the licensee as specified in K.A.R. 28-4-336; and
  - (3) documentation that the notification required by paragraph (c)(2) was received by the school district at least 90 days before the planned opening date.
- (d) Each applicant shall submit a report, on forms provided by the department, containing the identifying information that is necessary to complete criminal history and child abuse registry background checks for all persons 10 years of age and older residing, working, or regularly volunteering in the secure residential treatment facility.
- (1) The identifying information shall be submitted on a report as follows:
    - (A) At the time of application for an original license;
    - (B) at the time of application for renewal of a license; and
    - (C) before each new person resides, works, or regularly volunteers in the secure residential treatment facility.
  - (2) A copy of each report shall be kept on file at the facility. Youth admitted into a secure residential treatment facility for care and treatment shall not be considered to be residing in the secure residential treatment facility for the purposes of criminal history or child abuse background checks.
- (e) Each applicant shall submit to the department plans for each building that will be used as a secure residential treatment facility. Each plan shall state whether or not the secure residential treatment facility will rely on locked entrances and exits to secure the facility.



- (f) Each applicant shall submit a code footprint for each building to be used as a secure residential treatment facility to the Kansas state fire marshal's office for approval. Each applicant shall provide to the department a copy of the approval of the Kansas state fire marshal's office before a license is issued.
- (g) Each applicant shall be issued a license if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 through 65-516, and amendments thereto, and the regulations promulgated pursuant to these statutes and if the license fee required by K.S.A. 65-505, and amendments thereto, is submitted. Each license shall be prominently displayed within the facility.
- (h) Each licensee who wishes to renew the license shall apply for renewal of the license annually on forms supplied by the department and shall submit the fee as specified in K.S.A. 65-505, and amendments thereto.
  - (i) Request to withdraw an application or terminate a license.
    - (1) Each applicant shall inform the department if the applicant desires to withdraw the application. The withdrawal of the application shall be acknowledged by the department in writing. A new application and a new fee shall be required before opening a facility. No applicant shall admit a child before the applicant receives a license.
    - (2) Each licensee shall inform the department if the licensee desires to terminate the license. The licensee shall return the license to the department with the request to terminate the license. The request and the license shall be accepted by the department. The licensee and other appropriate agencies shall be notified by the department that the license is terminated and that the facility is considered closed. The former licensee shall submit a new application and fee to the department if that person desires to obtain a new license. That person shall not reopen the facility or admit any child before receiving a new license.
- (j) A new application and fee shall be submitted for each change of ownership, sponsorship, or location.
- (k) Grievance procedures.
  - (1) Each applicant or licensee receiving notice of the denial or revocation of a license shall be notified of the right to request an administrative hearing by the secretary, and subsequently of the right of appeal to the district court.
  - (2) If an applicant or licensee disagrees with a notice documenting any finding of noncompliance with licensing statutes or regulations, the applicant or licensee may request an explanation of the finding from the secretary's designee. If the explanation is not satisfactory to the applicant or licensee, the applicant or licensee may submit a written request to the secretary for reconsideration of the finding. The written request shall identify the finding in question and explain why the applicant

or licensee believes that the finding should be changed. The request shall be made to the secretary within 10 days after receiving the explanation.

- (l) Exceptions.
  - (1) Any applicant or licensee may submit to the department a written request for an exception to a regulation. An exception may be granted if the secretary or the secretary's designee determines the exception to be in the best interest of a youth or the youth's family, and if the exception does not violate statutory requirements.
  - (2) Written notice of each request for an exception that is approved by the secretary shall be provided to the applicant or licensee by the secretary or the secretary's designee. Each written notice shall state the nature and duration of the exception. This notice shall be posted with the license.
- (m) Each licensee shall notify the secretary and, if required by the secretary, obtain the secretary's written approval before making any change in any of the following:
  - (1) The use of the buildings; or
  - (2) the program, provided through either of the following:
    - (A) Direct services; or
    - (B) agreements with specified community resources.
- (n) The notification of a proposed change in the program shall include the following:
  - (1) A copy of the written notification of the proposed change that was submitted to the school district where the facility is located; and
  - (2) documentation that the notification required by paragraph (n)(1) was received by the school district at least 90 days before the anticipated date of any proposed change.
- (o) Amended license.
  - (1) Each licensee shall submit a request for an amended license and a \$35.00 fee to the secretary if the licensee desires to make any change in any of the following:
    - (A) The license capacity;
    - (B) the age of the children to be served; or
    - (C) the living units.
  - (2) Each request for a change in license capacity or the age range of children to be served shall include the following:
    - (A) A copy of the written notification of the proposed change that was submitted to the school district where the facility is located; and

- (B) documentation that the notification required in paragraph (o)(2)(A) was received by the school district at least 90 days before the anticipated date of any proposed change.
- (3) The licensee shall make no change unless permission is granted, in writing, by the secretary. If granted, the licensee shall post the amended license, and the prior license shall no longer be in effect.
- (p) Waiver of 90-day notification to the local school district. The 90-day notification to the local school district may be waived by the secretary upon receipt of a written agreement by the local school district.

This regulation shall be effective on and after July 30, 2002. (Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-501, 65-504, 65-505, 65-506, 65-508, and 65-516; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999; amended, T-28-4-1-02, April 1, 2002; amended July 30, 2002.)

**K.A.R. 28-4-332. Terms of license.**

- (a) The maximum number of youth and the age range of youth who may be treated in each secure residential treatment facility shall be specified on the facility's license. No youth less than 10 years of age shall be admitted to a secure residential treatment facility. No youth more than 18 years of age shall be admitted to a secure residential treatment facility, but any person admitted for treatment may continue to receive treatment until that person is 21 years of age.
- (b) Each license issued by the department shall be valid only for the firm, corporation, or association appearing on the license and for the address listed on the license.
- (c) Advertising for each secure residential treatment facility shall conform to the statement of services as given on the application. A claim for specialized services shall not be made unless the secure residential treatment facility is staffed and equipped to offer those services.

(Authorized by K.S.A. 1998 Supp. 65-508; implementing K.S.A. 1998 Supp. 65-501, 65-504, 65-508, and 65-510; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)

**K.A.R. 28-4-333. Administration.**

(a) Organization.

- (1) Each secure residential treatment facility shall be governed by one of the following entities:
  - (A) A public agency, who shall employ an administrator for the secure residential treatment facility; or
  - (B) a private entity with a governing board that is legally responsible for the operation, policies, finances, and general management of the secure residential treatment facility. The private entity shall employ an

administrator for the secure residential treatment facility. The administrator shall not be a voting member of the governing board.

- (2) If the licensee is a private corporation, it shall be a corporation qualified in the state of Kansas and shall operate in accordance with established by-laws. The licensee shall furnish a copy of the articles of incorporation and by-laws to the department before a license is issued. One of these documents shall include a nondiscrimination statement that complies with state and federal civil rights laws.

(b) Administrative policies.

- (1) A copy of these regulations for secure residential treatment facilities for youth shall be kept on the premises at all times and shall be made available to all staff members.
- (2) Each licensee shall develop and implement a quality assurance program to ensure consistent compliance with these regulations. The quality assurance program shall provide for review of the facility's policies, procedures and practices, including their consistency with licensure requirements.
- (3) Each licensee shall establish written plans and policies of organization and administration clearly defining legal responsibility, administrative authority, and responsibility for comprehensive services, including an organizational chart approved by the licensee.
- (4) Personnel and administrative policies shall be distributed to staff members.

(c) Finances.

(1) Funding.

- (A) Each secure residential treatment facility shall have sound and sufficient finances to ensure effective services. The licensee shall be responsible for financing plans. The licensee shall provide the financial resources necessary to maintain compliance with the regulations.
- (B) If the licensee is a charitable organization, all solicitation of funds conducted in Kansas shall be in compliance with K.S.A. 17-1759 et seq., and amendments thereto.
- (C) Youth shall not be used in any fund-raising efforts.

(2) Financial records.

- (A) Each secure residential treatment facility shall maintain financial records that are sufficient to verify resources and expenditures. Each secure residential treatment facility shall account for major expenditures on behalf of the youth for whom payment is received.

- (B) Each youth's personal money shall be kept separate from the facility funds. Each secure residential treatment facility shall maintain financial records of each youth's personal money.
- (C) A yearly audit by an independent accountant shall be conducted, and a copy of the audit shall be available at the secure residential treatment facility for review by the staff of the Kansas department of social and rehabilitation services, the juvenile justice authority, and the department.
- (D) Each secure residential treatment facility shall have an annual financial statement verifying assets and liabilities. The licensee shall make the annual financial statement available to the Kansas department of social and rehabilitation services, the juvenile justice authority, and the department.

(3) Insurance.

- (A) Each secure residential treatment facility shall maintain the following insurance:
  - (i) Professional and civil liability insurance for all employees; and
  - (ii) liability insurance for injury or personal property damage.
- (B) Each licensee shall purchase one or more motor vehicle liability insurance policies covering each vehicle owned or operated by the facility. Each policy shall contain the following limits of liability, exclusive of interest and costs:
  - (i) Not less than \$100,000 for personal injury or death in any one accident;
  - (ii) not less than \$300,000 for personal injury to, or the death of, two or more persons in any one accident; and
  - (iii) not less than \$50,000 for harm to, or destruction of, property of others in any one accident.

(d) Personnel policies.

- (1) Each secure residential treatment facility shall have written personnel policies, which shall be approved and reviewed annually by the governing body. The personnel policies shall be provided to each staff member upon employment. The personnel policies shall include the following:
  - (A) Hiring practices;
  - (B) job descriptions, including qualifications, duties, and responsibilities for each staff position;

- (C) policies regarding hours of work;
- (D) sick and vacation leave policies;
- (E) grievance procedures; and
- (F) a description of salaries, benefits, and staff development practices.

- (2) A personnel record shall be maintained for each employee and shall be made available to the employee upon written request.

(e) Staffing.

- (1) The governing body of each secure residential treatment facility shall designate an administrator whose responsibility is the overall administration of the facility.
- (2) A written daily staff schedule shall be developed and followed. The staff schedule shall meet all of the following requirements:
  - (A) The schedule shall provide for adequate staff on the living unit to directly supervise and interact with the youth at all times, to implement each youth's individual plan for care, and to provide for each youth's physical, social, emotional, and educational needs.
  - (B) The schedule shall provide for a minimum ratio of one youth care staff member on active duty to seven youth during waking hours and one youth care staff member on active duty to 10 youth during sleeping hours.
  - (C) At least one youth care staff member of the same sex as the youth shall be present, awake, and available to the youth at all times. If both male and female youth are present in the secure residential treatment facility, at least one male and one female youth care staff member shall be present, awake, and available.
- (3) At no time shall there be fewer than two youth care staff members present on the living unit when one or more youth are in care.
- (4) Youth shall not be left in a room unattended except that, during sleeping hours, the minimum ratio of youth care staff shall be immediately available in a connecting area to the sleeping rooms. Supervision of youth in involuntary seclusion shall comply with K.A.R. 28-4-338(c).
- (5) Alternate qualified youth care staff members shall be provided for the relief of the regular staff members on a one-to-one basis and in compliance with the staffing pattern required in paragraph (e)(2) of this regulation.
- (6) Electronic supervision shall not replace the youth care staffing requirements.
- (7) Auxiliary staff members shall be available as needed. The auxiliary staff shall include food service, clerical, and maintenance personnel. Auxiliary staff members shall not be included in meeting the minimum ratio of youth care staff to youth.

- (8) Professional consultant services shall be available, to the extent necessary, to meet the needs of the youth served. Professional consultants shall include physicians, dentists, nurses, clergy, social workers, psychologists, psychiatrists, teachers, and dieticians.
  - (9) A volunteer shall not be used as a substitute for a youth care staff member, but shall augment the services provided by the staff.
  - (10) A staff person designated to be in charge of the secure residential treatment facility shall be on-site at all times when a youth is in care. Procedures shall be in place to ensure that all staff members know who is in charge.
- (f) Community and volunteer involvement.
- (1) Each secure residential treatment facility shall establish written policies and procedures that provide for securing community and volunteer involvement in facility programs. The policies and procedures shall specify a screening and selection process for volunteers and shall encourage recruitment from all cultural and socioeconomic segments of the community.
  - (2) Written policies and procedures for volunteers shall include the following:
    - (A) A description of the lines and scope of authority, responsibility, and accountability for volunteers;
    - (B) orientation and training requirements for each volunteer; and
    - (C) a requirement that each volunteer who provides professional services must meet the same requirements as would be expected of a paid professional staff member providing the same services.
  - (3) Each volunteer shall agree, in writing, to abide by all secure residential treatment facility policies, specifically including those relating to security, confidentiality of information, and mandatory reporting laws pertaining to suspected abuse, neglect, and exploitation of youth.
  - (4) Each volunteer in contact with youth shall have a health assessment, including a screen for tuberculosis.

(Authorized by K.S.A. 1998 Supp. 65-508; implementing K.S.A. 1998 Supp. 65-508 and 65-516; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)

**K.A.R. 28-4-334. Staff development.**

- (a) Each person having contact with youth shall demonstrate emotional maturity, sound judgment, and a sound knowledge of the developmental needs of youth.
- (b) Administrator qualifications.
  - (1) Each administrator shall demonstrate the following:

- (A) Knowledge of the principles, practices, methods, and techniques of administration and management;
  - (B) ability to train, supervise, plan, direct, and evaluate the work of others, as documented by experience, training, or a combination of both;
  - (C) ability to establish and maintain effective working relationships with others;
  - (D) ability to establish and maintain effective working relationships with governmental agencies, schools, other treatment facilities, and community organizations;
  - (E) knowledge of the methods and techniques used in dealing with youth in a residential setting; and
  - (F) knowledge of principles and techniques of behavioral and mental health treatment and care of youth and of the growth, development, needs, and unique problems of youth.
- (2) Each administrator shall have a master's degree in social work or a related field, or a bachelor's degree in social work, human development and family life, psychology, or education. Each administrator shall have a minimum of three years of supervisory experience within a child care facility providing treatment to youth.
- (c) Each secure residential treatment facility shall have a program director who is responsible for oversight and implementation of the secure residential treatment facility's program. Each program director shall have a master's degree in social work, psychology, nursing, or a related field, and shall have a minimum of one year of supervisory experience in a treatment facility serving youth. In secure residential treatment facilities with more than 20 youth, the program director shall not be the administrator.
- (d) All youth care staff and alternate youth care staff shall meet the following requirements:
- (1) Be 21 years of age or older;
  - (2) have a high school diploma or its equivalent; and
  - (3) have completed one or more of one of the following:
    - (A) Three semester hours of college-level study in adolescent development, psychology, or a related subject;
    - (B) 45 clock hours of training in child care or child development; or
    - (C) one year of experience as a child care worker or house parent in a facility serving youth.
- (e) Professional staff and consultants shall meet all Kansas qualification and licensing requirements for their profession.
- (f) Each food service employee shall meet all of the following requirements:



- (1) Comply with the Kansas health standards established in K.A.R. 28-36-22;
  - (2) possess knowledge of the nutritional needs of children and youth;
  - (3) understand quantity food preparation and service concepts; and
  - (4) practice sanitary food handling and storage methods.
- (g) Staff professional development. Each secure residential treatment facility shall provide and monitor professional development programs, which shall consist of activities designed to achieve specific learning objectives. Professional development may occur through workshops, seminars, or staff meetings, or through closely supervised, on-the-job training.
- (1) Each secure residential treatment facility shall have written policies and procedures governing orientation and in-service training. Each employee shall receive orientation training before being assigned an independent job duty.
  - (2) Each youth care staff member shall receive a minimum of eight hours of orientation training before assuming any responsibility for supervising youth and an additional 32 clock hours of orientation training before assuming independent responsibility for supervision of youth. Orientation training shall include all of the following topics:
    - (A) Accident and injury prevention;
    - (B) child abuse, neglect, and exploitation reporting requirements;
    - (C) crisis management and intervention;
    - (D) emergency and safety procedures to follow in the event of an emergency, bomb threat, fire, tornado, riot, or flood;
    - (E) facility policies and procedures;
    - (F) first aid, including rescue breathing;
    - (G) health, sanitation, and safety measures;
    - (H) job duties and responsibilities;
    - (I) the rights of the youth;
    - (J) observation of symptoms of illness and communicable diseases;
    - (K) policies regarding behavior management, use of restraints, and involuntary seclusion;
    - (L) problem solving methods;
    - (M) report writing methods;
    - (N) security procedures; and
    - (O) suicide prevention.
  - (3) Each program director and each person having contact with youth shall complete a minimum of 40 clock hours of in-service training per year. In-service training shall include the following topics:
    - (A) Accident and injury prevention;
    - (B) child abuse symptoms and reporting requirements;
    - (C) child care practices;
    - (D) child psychosocial growth and development;
    - (E) first aid, including rescue breathing;
    - (F) the rights of the youth;

- (G) licensing regulations;
  - (H) observations of symptoms of illness and communicable diseases;
  - (I) suicide prevention;
  - (J) use of restraints and seclusion; and
  - (K) crisis management.
- (4) Each program director shall attend a minimum of one training event per year away from the facility, in addition to the in-service training conducted at the facility.
  - (5) Each person's in-service training shall be documented in that person's personnel file.

(Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)

**K.A.R. 28-4-335. Admission and release policies.**

- (a) Before admission, each youth shall be evaluated by a person approved by the Kansas behavioral sciences regulatory board, Kansas board of nursing, or Kansas board of healing arts to diagnose and treat mental and behavioral disorders, or by a qualified mental health professional as defined in K.S.A. 59-2946(j) and amendments thereto, to determine all of the following:
  - (1) Whether or not the youth is a danger to self or others;
  - (2) whether or not secure treatment is clinically indicated; and
  - (3) whether or not there are other less restrictive facilities that could meet the youth's needs.
- (b) Any youth may be admitted to the secure residential treatment facility if the preadmission evaluation of the youth indicates all of the following:
  - (1) The youth is a danger to self or others.
  - (2) The youth requires treatment in a secure setting.
  - (3) Less restrictive care is not available to meet the youth's needs.
- (c) All written admission policies and procedures of the facility shall conform with the goals and purposes of the facility.
- (d) Admission procedures and practice shall include provisions for the following:
  - (1) Collecting identifying information;
  - (2) completing a health history checklist, which shall be completed on a form approved by the department and which shall include a description of bruises, abrasions, symptoms of illness, and current medications;
  - (3) assessing the youth's suicide risk potential, assault potential, and escape risk;
  - (4) conducting an intake interview;

- (5) providing an orientation to the secure residential treatment facility in a manner that is understandable to the youth. Completion of the orientation and receipt of all written orientation materials shall be documented by a signed statement from the youth;
  - (6) completing an inventory that documents the youth's clothing and personal possessions and their disposition. Each inventory shall include a written list of all money and personal property of the youth, shall be signed by the youth and the admitting staff member, and shall be kept with the youth's record. If the youth refuses to sign the inventory, the refusal shall be documented in the youth's record;
  - (7) distributing personal hygiene items;
  - (8) providing for a shower and hair care;
  - (9) issuing clean, laundered clothing, if necessary; and
  - (10) assigning the youth to a sleeping room.
- (e) No youth shall be admitted who shows evidence of being seriously physically ill, injured, or under the influence of alcohol or drugs until the youth is examined and approved for admission by a physician licensed to practice in Kansas.
  - (f) A licensee or employee of a secure residential treatment facility shall not accept permanent legal guardianship of a youth.
  - (g) Release policies.
    - (1) All releases shall be authorized by the treatment team or the legal custodian.
    - (2) Temporary releases for court attendance, medical appointments, placement visits, or other necessary purposes shall be permitted when authorized by the parent or legal guardian or the court.
    - (3) The secure residential treatment facility shall provide release forms to be signed by the person to whom the youth is released and by the staff person releasing the youth.
    - (4) Procedures and practices for the discharge of youth shall include provisions for the following:
      - (A) Verification of identity of the youth and the person to whom the youth is released;
      - (B) completion of any pending action, including any grievance or claim for damages or lost possessions;
      - (C) transportation arrangements;

- (D) instructions for forwarding mail; and
  - (E) return of money and personal property to the youth. A receipt for all money and personal property shall be signed by the youth.
- (h) Length of treatment.
  - (1) Each youth shall be released or transferred within six months of the youth's admission date.
  - (2) A secure residential treatment facility may request that a youth remain in the facility longer than six months, if the treatment team determines that continued treatment in a secure residential treatment facility is necessary and the department approves an extension of treatment.
  - (3) Each written request for an extension shall be submitted to the department before the end of the six-month period. The request shall include the following information:
    - (A) The name of the youth;
    - (B) the reason why the extension is needed; and
    - (C) the length of time of the requested extension.
  - (4) If it is determined to be in the best interest of the youth and the youth's family, the request shall be approved by the department.

(Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)

**K.A.R. 28-4-336. Program and services.**

- (a) Each secure residential treatment facility shall keep documentation of each youth's preadmission evaluation in the youth's file.
- (b) An interdisciplinary treatment team shall develop an individualized plan of care for each youth admitted to the secure residential treatment facility. The team shall review the treatment plan every 30 days and shall update the treatment plan as necessary. Each review shall be documented and signed by the clinical director or the clinical director's designee.
- (c) The treatment team shall be headed by the clinical director or the clinical director's designee.
- (d) Each facility shall maintain a written plan and daily routine for all youth, which shall include the following:
  - (1) Meals;
  - (2) rest and sleep;
  - (3) personal hygiene;
  - (4) physical exercise;

- (5) recreation;
  - (6) mental health services;
  - (7) education; and
  - (8) social services.
- (e) Classroom instruction shall be provided on-site by teachers holding appropriate certification from the Kansas board of education.
- (1) The staff of the secure residential treatment facility shall coordinate education services with the local school district. During the local school year, each youth shall receive a minimum of six hours of instruction per day, excluding weekends and holidays.
  - (2) For each youth currently enrolled in a Kansas public school, the staff of the secure residential treatment facility shall maintain contact with the youth's home school district to ensure the continuity of each youth's education.
  - (3) The staff of the facility shall provide a regular schedule of instruction and related educational services appropriate to the needs of each youth.
  - (4) Youth care staff shall be stationed in proximity to the classroom, with frequent, direct, physical observation of the classroom activity at least every 15 minutes, to provide immediate support to the teacher.
- (f) Library services.
- (1) Each secure residential treatment facility shall have written policies and procedures that govern the facility's library program, including acquisition of materials, hours of availability, and staffing.
  - (2) Library services shall be available to all youth.
    - (A) Reading and other library materials may be provided for use during non-library hours.
    - (B) Library materials shall be appropriate for various levels of competency.
    - (C) Reading material shall reflect a variety of interests.
- (g) Recreation.
- (1) Each secure residential treatment facility shall provide indoor and outdoor recreational areas and equipment where security and visual supervision can be easily maintained. Unless restricted for health reasons, all youth shall be allowed to engage in supervised indoor and outdoor recreation on a daily basis.
  - (2) Art and craft supplies, books, current magazines, games, and other indoor recreational materials shall be provided for leisure time activities.

- (h) Work.
  - (1) Work assignments shall not be used as a substitute for recreation.
  - (2) Youth shall be prohibited from performing the following duties:
    - (A) Personal services for the staff;
    - (B) cleaning or maintaining areas away from the facility;
    - (C) replacing employed staff; or
    - (D) any work experience defined as hazardous by the Kansas department of human resources regulations governing child labor.
  - (3) After receiving the required youth care staff orientation and training, auxiliary staff may supervise work activities. Youth care staff shall be within visual and auditory distance to provide immediate support, if necessary.
- (i) Visitation and communication.
  - (1) Each secure residential treatment facility shall provide telephone and contact visitation rights for parents, legal guardians, legal representatives, and other visitors approved by personnel designated by the administrator. Private telephone conversation and visitation shall be allowed, except when a need to protect the youth is clinically indicated, as documented in the youth's individual plan for care.
  - (2) The facility shall make written policies and procedures regarding telephone use and visitation available to all youth, parents, legal guardians, and legal representatives.
  - (3) A youth shall not be denied the right to contact an attorney or court counselor. No court counselor or attorney shall be refused visitation with a youth to whom the counselor or attorney is assigned.
  - (4) Staff of the secure residential treatment facility shall not censor mail or written communication, except to check for contraband, unless there is sufficient reason to believe that the security of the facility is at risk. Suspect mail shall be opened by staff in the presence of the addressee. If mail is to be read, the youth shall be informed in advance and shall be present when the mail is opened. The reason for each occasion of censorship shall be documented and kept in the youth's record.
  - (5) Writing materials and postage for the purposes of correspondence shall be available to youth. Materials and postage for at least two letters per week shall be provided for each youth.
  - (6) First-class letters and packages shall be forwarded after the transfer or release of each youth.

- (j) Transportation. Each secure residential treatment facility shall establish and implement written policies and procedures for transporting youth.
- (1) The transportation policies and procedures shall include all of the following information:
    - (A) A list of the persons authorized to transport youth for the secure residential treatment facility;
    - (B) a description of precautions to prevent escape during transfer;
    - (C) documentation of a current and appropriate license for each secure residential treatment facility driver for the type of vehicle in use;
    - (D) provisions for maintaining documentation of current insurance in the transporting vehicle if the licensee is a private entity; and
    - (E) procedures to be followed in case of accident, injury, or other critical incident, including notification procedures.
  - (2) Each transporting vehicle owned or leased by the secure residential treatment facility shall have a yearly safety check. A record of the yearly safety check and all repairs or improvements made shall be kept on file at the secure residential treatment facility. When youth are transported in a privately owned vehicle, the vehicle shall be in good working condition.
  - (3) Each vehicle used by the secure residential treatment facility to transport youth shall be equipped with an individual seat belt for the driver, each youth passenger, and each additional passenger. The driver, each youth passenger, and each additional passenger shall be required to use the seat belts at all times.
  - (4) Smoking in the transporting vehicle shall be prohibited while youth are being transported.
  - (5) Youth shall be delivered to the designated destination by the most direct route.
  - (6) Youth shall not be shackled or confined with mechanical restraints when being transported by staff.

(Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)

**K.A.R. 28-4-337. Records.**

- (a) Personnel records. Each secure residential treatment facility shall maintain individual personnel records for each staff member, which shall include the following information:
  - (1) The staff member's job application, including all of the following:

- (A) Identifying information;
    - (B) the staff member's qualifications; and
    - (C) character and employment references;
  - (2) a description of the staff member's terms of employment and a copy of the staff member's job description;
  - (3) documentation of the staff member's employment dates and a copy of each of the staff member's annual performance reviews;
  - (4) the staff member's health certificates, including a record of the results of a health assessment and tuberculin test, documented on forms supplied or approved by the department;
  - (5) documentation of orientation, in-service training, and continuing education completed by the staff member;
  - (6) documentation of the report submitted to the department for the purpose of a background check for criminal and child abuse histories, to determine compliance with K.S.A. 65-516, and amendments thereto;
  - (7) documentation that the staff member has read, understands, and agrees to all of the following:
    - (A) The statutes and regulations regarding mandatory reporting of suspected child abuse, neglect, and exploitation;
    - (B) the regulations for licensing secure residential treatment facilities for youth;
    - (C) the secure residential treatment facility's policies and procedures, including personnel, administrative, daily, and behavior management policies and procedures; and
    - (D) policies providing for a drug-free workplace; and
  - (8) a copy of each grievance and incident report regarding the specific staff member, including documentation regarding the means of resolution of each report.
- (b) Volunteer records. Each secure residential treatment facility shall maintain individual volunteer records documenting the facility-related activities of each volunteer. The records shall include the following:
- (1) The volunteer's identifying information;
  - (2) a copy of the volunteer's job description;
  - (3) documentation of the volunteer's dates of service and a copy of each of the volunteer's performance reviews;



- (4) documentation of orientation provided to the volunteer regarding the secure residential treatment facility and specific assignments given to the volunteer;
  - (5) documentation that the volunteer has read, understands, and agrees to follow the policies and procedures of the secure residential treatment facility, including those related to security, confidentiality of information, and mandatory reporting of suspected child abuse and neglect;
  - (6) documentation of freedom from active tuberculosis;
  - (7) documentation of the report submitted to the department for the purpose of a background check for criminal and child abuse histories, to determine compliance with K.S.A. 65-516, and amendments thereto; and
  - (8) a copy of the health assessment as required in K.A.R. 28-4-333(f)(4).
- (c) Youth records.
- (1) Each secure residential treatment facility shall establish and implement written policies and procedures governing management of youth records. These policies and procedures shall include provisions for the following:
    - (A) Establishment, utilization, content, privacy, security, and preservation of records;
    - (B) a schedule for the retirement and destruction of inactive case records; and
    - (C) a review of the youth record policies and procedures at least annually and revision as needed.
  - (2) Each secure residential treatment facility shall keep a register of all youth in care. The register shall include the following information for each youth:
    - (A) Name;
    - (B) date of birth;
    - (C) the name and address of each parent or legal guardian;
    - (D) the name and address of the legal custodian, if not the parent or legal guardian;
    - (E) the name and address of the closest living relative, if other than a parent or guardian;
    - (F) the reason for admission; and
    - (G) the dates of admission and release.
  - (3) Each facility shall keep individual records for each youth, which shall include the following:
    - (A) The youth's identifying information;
    - (B) a description of the youth's legal status;
    - (C) the name of the youth's legal custodian;

- (D) medical and dental permission forms, signed by a parent or legal guardian. The permission form used shall be one that is acceptable to the vendor who will provide the service; and
  - (E) a written inventory of all money and personal property of the youth signed by the youth and the admitting staff member as required by K.A.R. 28-4-335(d).
- (4) Each facility shall keep a daily log of each youth's behavior in the youth's individual record file, with notations regarding any special problems and the response of the staff to any problems. Each entry shall be initialed by the staff member making the entry.
  - (5) A list of all youth receiving treatment shall be submitted on forms provided by the department upon request.
  - (6) Information from a youth's record shall not be released without written permission from the youth's parent or legal guardian. Improper disclosure of records or information regarding a youth shall be grounds for revocation or suspension of the secure residential treatment facility's license or denial of a facility's application for licensure.
  - (7) The written policies, procedures, and practices regarding youth records shall provide for the transfer of a youth's record upon release of a youth to a residential care facility. Each secure residential treatment facility shall ensure that each youth's record precedes or accompanies the youth. The case file information shall include the following:
    - (A) Identifying information;
    - (B) medical records;
    - (C) immunization records;
    - (D) insurance information;
    - (E) the youth's medical card, when applicable;
    - (F) school placement information, including present courses of study; and
    - (G) the name and address of each parent or legal guardian.
  - (8) Additional case file information to be transferred shall accompany the youth or be transferred within 72 hours.

(Authorized by K.S.A. 1998 Supp. 65-508; implementing K.S.A. 1998 Supp. 65-508 and 65-516; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)

**K.A.R. 28-4-338. Behavior management.**

- (a) Policies.
  - (1) Each secure residential treatment facility shall establish and implement written policy providing for a behavior management system that assists youth to develop inner control and manage their own behavior in a socially acceptable manner.

The policy shall provide the following:

- (A) Expectations that are age appropriate and that allow for special abilities and limitations; and
    - (B) positive and negative consequences related to each expectation.
  - (2) Each facility shall establish written rules of youth conduct that define expected behaviors and related consequences.
    - (A) A rule book containing expected behaviors, ranges of consequences, and disciplinary procedures shall be given to each youth and youth care staff member.
    - (B) An acknowledgment of receipt of the rule book shall be signed by each youth and kept in each youth's record.
    - (C) If a literacy or language problem prevents a youth from understanding the rule book, a staff member or translator shall assist the youth in understanding the rules.
  - (3) Each staff member who has direct contact with youth shall be thoroughly familiar with the rules of youth conduct, the rationale for the rules, and the intervention options available.
- (b) Discipline.
- (1) Discipline that is humiliating, frightening, or physically harmful to the youth shall not be used at any time. Each youth shall be protected against all forms of neglect, exploitation, or degrading forms of discipline. No youth shall be isolated or confined in any dark space. Electronic monitoring or an audio communication system shall not replace the required presence of a youth care staff member.
  - (2) Corporal punishment shall not be used.
  - (3) Under no circumstances shall any youth be deprived of meals, clothing, sleep, medical services, exercise, correspondence, parental contact, or legal assistance for disciplinary purposes. If a youth is in involuntary seclusion during normal school hours, school work shall be provided to the youth.
  - (4) Under no circumstances shall any youth be allowed to supervise or to administer discipline to another youth.
- (c) Involuntary seclusion.
- (1) Involuntary seclusion shall be permitted within a secure residential treatment facility only when a youth is out of control, continually refuses to obey reasonable and lawful

requests, or behaves in a way that presents a threat to self or others.

- (2) Each secure residential treatment facility shall establish and implement written policies and procedures that govern the use of involuntary seclusion. The policies and procedures shall include provisions that meet the following conditions and requirements:
- (A) Permit the use of involuntary seclusion if all other less restrictive methods to prevent immediate, substantial bodily injury to the youth or others have been attempted and have failed to prevent immediate and substantial bodily injury to the youth or others and if all alternative measures to prevent injury are not sufficient to accomplish this purpose;
  - (B) require a written order by the program director of the secure residential treatment facility, physician, psychologist, or other approved staff member each time a youth is placed in or released from involuntary seclusion;
  - (C) ensure that no more than one youth is placed in an involuntary seclusion room at any one time;
  - (D) provide for a search of each youth and removal of any items that may be used to injure oneself or others before admission to the involuntary seclusion room;
  - (E) ensure that each youth is provided appropriate clothing at all times;
  - (F) ensure that each youth in involuntary seclusion is provided with a mattress on a clean, level surface above floor level;
  - (G) ensure that each youth receives all meals and snacks normally served and is allowed time to exercise and perform necessary bodily functions;
  - (H) ensure that each youth has prompt access to drinking water and washroom facilities;
  - (I) ensure that the designated staff member on duty makes appropriate entries in the youth's records regarding the use of involuntary seclusion;
  - (J) ensure that at least one youth care staff member is in the proximity of each youth in involuntary seclusion at all times, with direct, physical observation at least every 15 minutes. At the time of each observation, all of the following activities shall occur:
    - (i) Interactive intervention shall be attempted, unless the youth is sleeping;

- (ii) the result of the intervention shall be recorded; and
    - (iii) the condition of the youth shall be recorded;
  - (K) ensure constant supervision if a youth is considered suicidal; and
  - (L) provide for an assessment of the need for continued involuntary seclusion at each shift change and for documentation of the reasons that involuntary seclusion is continued.
- (3) Electronic or auditory devices shall not be used to replace staff supervision of youth in involuntary seclusion.
  - (4) A youth shall not remain in involuntary seclusion for more than 24 hours without written approval of the program director or the program director's designee. No staff person who was involved in the incident leading to involuntary seclusion shall be permitted to approve an extension of the involuntary seclusion.
  - (5) The program director or designee who approved the extended involuntary seclusion shall visit with each isolated youth at least once within each eight-hour period after the first 24 hours.
  - (6) Written approval of the program director or program director's designee shall be required for each eight-hour period that involuntary seclusion is extended, beyond the first 24 hours.
  - (7) Involuntary seclusion shall not exceed 48 hours for any reason unless the youth continues to behave in a way that presents a threat to oneself or others.
  - (8) If a youth requires more than 48 consecutive hours of involuntary seclusion or more than 72 cumulative hours of involuntary seclusion within any seven-day period, or is placed on suicide watch, an emergency staff meeting shall be held to discuss the appropriateness of the youth's individual plan of care.
- (A) Participants in the emergency staff meeting shall include the following:
    - (i) The youth, if behavior permits;
    - (ii) the program director or the program director's designee;
    - (iii) a physician, clinical psychologist, or clinical social worker who has assessed the youth; and
    - (iv) any other appropriate staff member.
  - (B) The youth's parents or legal guardian shall be notified of the emergency staff meeting and invited to participate. Documentation of notifications shall be kept in the youth's record.

- (C) The results of the emergency staff meeting shall be recorded and maintained on file.
- (9) All youth care staff and program personnel shall be informed at all times of the current status of each youth in involuntary seclusion.
- (d) Restraint.
  - (1) Each facility shall establish and implement written policies and procedures that govern the use of restraint.
  - (2) These policies and procedures shall include the following:
    - (A) Limitations on the use of physical restraint to instances of justifiable self-defense, protection of the youth or others, or the protection of property;
    - (B) permission to use physical restraint only if all other less restrictive methods of controlling the youth's dangerous behavior were attempted and failed;
    - (C) a statement that chemical agents are not to be used by secure residential treatment facility personnel;
    - (D) a statement that psychotropic medications are not to be used for disciplinary reasons; and
    - (E) a statement that psychotropic medications are to be administered only when medically necessary upon order of the youth's physician.
  - (3) The restraints selected shall be the least restrictive measure necessary to prevent injury to the youth or others.
  - (4) Restraint or involuntary seclusion shall never be used for punishment or for the convenience of staff. Restraint or involuntary seclusion shall not be used for more than three consecutive hours without medical reevaluation of its necessity, except between the hours of 12:00 midnight and 8:00 a.m., unless necessary for the safety and well-being of the youth.
  - (5) Each secure residential treatment facility that uses restraint shall develop and insure implementation of a comprehensive policy on the use of each restraint. The policy shall identify the following:
    - (A) The forms of restraint in use at the secure residential treatment facility, clearly demonstrating that each specified form of restraint is required to appropriately serve youth;

- (B) specific criteria for the use of each form of restraint;
- (C) the staff members authorized to approve the use of each form of restraint;
- (D) the staff members authorized and qualified to administer or apply each form of restraint;
- (E) the approved procedures for application or administration of each form of restraint;
- (F) the procedures for monitoring any youth placed in each form of restraint;
- (G) any limitations on the use of each form of restraint, including time limitations;
- (H) the procedures for immediate, continual review of restraint placements for each form of restraint, except passive physical restraint; and
- (I) procedures for comprehensive record keeping concerning all incidents involving the use of restraint, including incidents of passive physical restraint if it is used in conjunction with or leads to the use of any other form of restraint.

(Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)

**K.A.R. 28-4-339. Rights of youth.**

- (a) The rights of youth while in the licensee's care or control shall not be diminished or denied for disciplinary reasons.
- (b) Each secure residential treatment facility shall establish and implement written policies and procedures concerning the rights of the youth. These policies and procedures shall provide that youth are assured of their rights, except if it is necessary to maintain order and security in the secure residential treatment facility or if it is contrary to a youth's approved treatment plan. These policies and procedures shall ensure the following:
  - (1) Freedom from personal abuse, corporal or unusual punishment, excessive use of force, humiliation, harassment, mental abuse, or punitive interference with the daily functions of living, including eating or sleeping;
  - (2) freedom from discrimination based on race, color, ancestry, religion, national origin, sex, or disability;
  - (3) equal access to programs and services for both male and female youth in coed facilities;

- (4) receipt and explanation of written rules and grievance procedures of the facility, in a language that the youth can understand;
- (5) opportunity for physical exercise on a daily basis, including outdoor exercise if weather permits;
- (6) participation in religious worship and religious counseling on a voluntary basis, subject only to the limitations necessary to maintain order and security;
- (7) reasonable religious diets;
- (8) the right to wear personal clothing consistent with secure residential treatment facility guidelines. If the facility provides clothing, it shall be of proper size and shall be approved by the department;
- (9) access to the courts and confidential contact with attorneys, judges, parents, social workers, and other professionals, including telephone conversations, visits, and correspondence;
- (10) medical treatment and emergency dental care, a medically proper diet, and the right to know what and why medications are being prescribed;
- (11) the right to send and receive uncensored mail in accordance with K.A.R. 28-4-336(i)(4);
- (12) the right to receive visitors and communication in accordance with the facility's visitation policies;
- (13) the right to determine the length and style of hair, except when a physician determines that a haircut is medically necessary; and
- (14) the right to keep facial hair, if desired, except when a licensed physician determines that removal is medically necessary for health and safety.

(Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8 1999; effective November 5, 1999.)

**K.A.R. 28-4-340. Emergency, safety, security, and control.**

- (a) Each secure residential treatment facility shall develop a disaster plan to provide for the safety of youth in emergencies. The licensee shall review the plan at least annually and update as needed. The plan and any subsequent updates shall be approved by the state fire marshal or the fire marshal's designee.
  - (1) The disaster plan shall contain provisions for the care of youth in disasters, including fires, tornadoes, storms, floods, and civil disorders, as well as occurrences of serious illness or injury to staff members and youth.



- (2) All of the staff in the secure residential treatment facility shall be informed of the disaster plans, and the plans shall be posted in a prominent location.
  - (3) Each secure residential treatment facility shall have first aid supplies, including the following:
    - (A) Assorted adhesive strip bandages;
    - (B) adhesive tape;
    - (C) a roll of gauze;
    - (D) scissors;
    - (E) a package of gauze squares;
    - (F) pump soap;
    - (G) an elastic bandage;
    - (H) tweezers; and
    - (I) rubbing alcohol.
  - (4) Each secure residential treatment facility that uses involuntary seclusion shall have a policy and procedure to evacuate each youth in seclusion in the event of a fire or other emergency.
- (b) The secure residential treatment facility shall conduct a minimum of one fire drill and one tornado drill per shift per quarter.
  - (c) Security and control. Each secure residential treatment facility shall use a combination of supervision, inspection, accountability, and clearly defined policies and procedures on the use of security to promote safe and orderly operations.
    - (1) All written policies and procedures for security and control shall be available to all staff members. The licensee shall review the policies and procedures at least annually and update as needed, and shall include all of the following requirements:
      - (A) The licensee shall ensure that a daily report on youth population movement is completed and kept on file.
      - (B) Written operational shift assignments shall state the duties and responsibilities for each assigned position in the secure residential treatment facility.
      - (C) Supervisory staff shall maintain a permanent log and prepare shift reports that record routine and emergency situations.
      - (D) The licensee shall ensure that security devices are regularly inspected and maintained, with any corrective action completed as necessary and recorded.
      - (E) No weapons shall be permitted in the facility.
      - (F) The licensee shall ensure that guidelines for the control and use of keys, tools,

and medical and culinary equipment are implemented.

- (G) No youth or group of youth shall exercise control or authority over another youth, have access to the records of another youth, or have access to or use of keys that control security.
  - (H) The licensee shall ensure that procedures are developed and implemented for handling escapes, runaways, and unauthorized absences.
  - (I) The licensee shall ensure that safety and security precautions are developed and implemented pertaining to facility and staff vehicles.
- (2) The licensee shall ensure that policies and procedures are developed for the prosecution of any illegal act committed while the youth is in care.
  - (3) The licensee shall ensure that policies and procedures are developed and implemented to prohibit the use of chemical agents, including mace, pepper mace, or tear gas, by facility staff.
  - (4) Poisons and all flammable materials shall be kept in locked storage.
  - (5) The licensee shall ensure that policies and procedures are developed that govern documentation of all special incidents, including the taking of hostages and the use of restraint. The policies and procedures shall require submission of a written report of all special incidents to the program director or the program director's designee. Each report shall be submitted no later than the conclusion of that shift. A copy of the report shall be kept in the youth's record. A copy of the report of any incident that involves the taking of hostages, the death or injury of a youth, or criminal charges against a youth or staff member shall be submitted to the department and the placing agent.
  - (6) The licensee shall ensure that each incident of disaster is reported to the department within 24 hours, excluding weekends and holidays. Each incident of fire shall also be reported to the state fire marshal within 24 hours, excluding weekends and holidays.
  - (7) A written plan shall provide for continuing operations in the event of a work stoppage. Copies of this plan shall be available to all staff. The licensee shall ensure that each incident of work stoppage is reported to the department within 24 hours, excluding weekends and holidays.

(Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)

**K.A.R. 28-4-341. Health care policies.**

(a) Health services for youth.

- (1) Each secure residential treatment facility, in consultation with a physician, shall develop written health care policies that cover the following:
  - (A) A health history checklist and review for each youth upon admission, as documented on forms approved by the department;
  - (B) follow-up health care, including a health examination and referrals, for concerns identified in the health history checklist and review;
  - (C) dental screening upon admission and follow-up emergency dental care as needed;
  - (D) preventive dental care for youth;
  - (E) chronic care, convalescent care, and preventive care, if medically indicated;
  - (F) care for minor illness, including the use and administration of prescription and nonprescription drugs;
  - (G) care for youth under the influence of alcohol or other drugs;
  - (H) consultation regarding individual youth, if indicated;
  - (I) infection control measures and universal precautions to prevent the spread of blood-borne infectious diseases;
  - (J) maternity care as defined in K.A.R. 28-4-279; and
  - (K) medically indicated seclusion.
- (2) Each facility shall designate as a medical consultant a physician licensed to practice in Kansas.
- (3) Each facility shall obtain written consent from each youth's parent or legal guardian for medical and dental care.
- (4) The medicine cabinet shall be located in an accessible, supervised area. The cabinet shall be kept locked. Medications taken internally shall be kept separate from other medications. All unused medication shall be safely discarded.
- (5) All medications shall be administered by a designated staff member qualified to administer medications. Prescription medication shall be given from a pharmacy container labeled with the following:

- (A) The youth's name;
- (B) the name of the medication;
- (C) the dosage and the dosage intervals;
- (D) the name of the prescribing physician; and
- (E) the date the prescription was filled.

Any changes of prescription or directions for administering a prescription medication shall be authorized, in writing, by a physician with documentation placed in the youth's record.

- (6) All medication, including nonprescription medication, shall be given only in accordance with label directions, unless ordered differently by a physician. A record shall be kept in the youth's record documenting the following:
  - (A) The name of the person who gave the medication;
  - (B) the name of the medication;
  - (C) the dosage; and
  - (D) the date and time it was given.
- (7) Each licensee shall make the following arrangements for emergency care:
  - (A) The secure residential treatment facility shall have a written record of the name, address, and telephone number of a physician licensed in Kansas to be called in case of emergency.
  - (B) Policies and procedures shall ensure the continuous care of youth who require emergency medical treatment.
  - (C) If a staff member accompanies a youth to the source of emergency care, the staff member shall remain with the youth for the duration of the emergency.
  - (D) Supervision of the other youth in the secure residential treatment facility shall not be compromised.
  - (E) The health history checklist and health assessment shall be taken to the emergency room with the youth.
- (8) The licensee shall report each instance of suspected abuse or neglect and each incident resulting in the death of or in a serious injury to any staff member or youth that requires treatment at a hospital. The report shall be made within 24 hours, excluding weekends and holidays, to the department and the county health department in which the secure residential treatment facility is located. The licensee shall submit each written incident report to the department within five working days. If an injured youth is taken to a hospital or seen by a physician, the licensee shall ensure that the parent or legal guardian or custodian is notified as soon as possible. If suspected abuse or neglect of a youth occurs, the licensee shall ensure that the Kansas department of social and rehabilitation services is notified.

- (9) The licensee shall ensure that any injury to a youth or staff member that is a result of suspected criminal action is reported immediately to the local law enforcement officials.
  - (10) The licensee shall ensure that any death of staff or a youth within the secure residential treatment facility is reported to the local law enforcement officials.
- (b) Physical health of youth.
- (1) The licensee shall ensure that a health history checklist is completed for each youth at the time of admission. This checklist shall be completed by the person who admits the youth, using forms supplied or approved by the department.
    - (A) The health checklist shall serve as a guide to determine if a youth is in need of immediate medical care.
    - (B) The licensee shall ensure that the secure residential treatment facility's physician is contacted for any youth who is taking a prescribed medication at the time of admission so that treatment is not interrupted.
    - (C) The licensee shall ensure that a physician is contacted for any youth who has acute symptoms of illness or who has a chronic illness. Communicable diseases shall be reported to the local county health department within 24 hours, excluding weekends and holidays.
  - (2) Within 72 hours of admission, a physician or a nurse certified by the department to conduct screening and health assessments shall review the health history checklist. Based upon health indicators derived from the checklist or in the absence of documentation of a screening within the past 24 months, the physician or certified nurse shall determine whether or not a full screening and health assessment are necessary.
    - (A) If necessary, the screening and health assessment shall be conducted by a licensed physician or by a nurse certified by the department to conduct these examinations.
      - (i) The screening and health assessment shall be completed within 10 days of admission.
      - (ii) The screening shall be based upon health assessment and screening guidelines provided or approved by the department.
    - (B) Medical and dental records shall be kept on forms provided or approved by the department and shall be kept current.
    - (C) The licensee shall ensure that each youth receives a tuberculin skin test. A chest x-ray shall be taken of all positive tuberculin reactors and those with a

history of positive reaction. The proper treatment or prophylaxis shall be instituted. The results of this follow-up shall be recorded in the youth's record, and the county health department shall be informed of the results.

(D) Each licensee shall maintain a current health record that includes the following for each youth:

- (i) The youth's current immunization record;
- (ii) a health history checklist;
- (iii) documentation of the review of the health history checklist;
- (iv) documentation of the decision regarding the need for screening and health assessment;
- (v) the tuberculin skin test result;
- (vi) a list of medical contacts; and
- (vii) entries regarding the youth's health care plan.

(E) The health record shall accompany the youth when transferred. A copy of the health record shall be kept in the youth's record at the secure residential treatment facility.

(3) The licensee's written policies and procedures shall prohibit the use of tobacco in any form by youth while in care.

(c) Dental health of youth.

(1) Each licensee shall make emergency dental care available for all youth. Each youth's record shall include a report of a dental examination obtained within one year before or 60 days after admission.

(2) The secure residential treatment facility staff shall develop plans for dental health education and shall supervise the youth in the practice of good dental hygiene.

(d) Personal health of staff members and volunteers.

(1) Each person caring for youth shall meet the following requirements:

- (A) Be free from communicable disease;
- (B) be free from physical, mental, or emotional handicaps to the extent necessary to fulfill the responsibilities listed in the job description, and protect the health, safety, and welfare of the youth; and
- (C) be free from impaired ability due to the use of alcohol or other drugs.

(2) Each staff member who may have contact with any youth shall receive a health examination within one year before employment. This examination shall be conducted by a licensed physician or a nurse authorized to conduct these

examinations.

- (3) Results of the health examination shall be recorded on forms supplied or approved by the department and kept on file. Health assessment records may be transferred from a previous place of employment, if the transfer occurs within one year of the examination date.
  - (4) The initial health examination shall include a tuberculin skin test. If there is a positive reaction to the tuberculin skin test or a history of previous positive reaction, a chest x-ray shall be required. Proof of proper treatment or prophylaxis shall be required. Documentation of the test, x-ray, and treatment results shall be kept on file in the person's health record.
  - (5) A tuberculin skin test or a chest x-ray shall be required if significant exposure to an active case of tuberculosis occurs or if symptoms compatible with tuberculosis develop. If there is a positive reaction to the diagnostic procedure, proof of proper treatment or prophylaxis shall be required. The results of this follow-up shall be recorded in the person's health record. The licensee shall inform the department of each case described in this paragraph.
  - (6) Each licensee shall require all volunteers to present written proof of freedom from active tuberculosis before serving in the facility.
  - (7) Smoking shall not be permitted in the facility.
- (e) Personal hygiene.
- (1) The licensee shall ensure that each youth bathes upon admission and that each youth is given the opportunity to bathe daily.
  - (2) The licensee shall give all youth the opportunity to brush their teeth after each meal.
  - (3) The licensee shall furnish each youth with toothpaste and a toothbrush. Pump soap shall be available at all community sinks and showers.
  - (4) Each licensee shall make facilities for shaves and haircuts available.
  - (5) Each youth's washable clothing shall be changed and laundered at least twice a week. The licensee shall ensure that clean underwear and socks are available to each youth on a daily basis.
  - (6) Each female youth shall be provided personal hygiene supplies with regard to her menstrual cycle.
  - (7) The licensee shall ensure that clean, individual bath and face towels are issued to each youth at least twice a week. Bed linen shall be changed at least once a week.

- (8) The licensee shall allow each youth to have at least eight hours of sleep each day. Fourteen hours of activity shall be provided.

(Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)

**K.A.R. 28-4-342. Mental health policies.**

- (a) The treatment and activities provided by the secure residential treatment facility for youth shall supplement and support the family-child relationship.
- (b) The views of the parents, the youth, and the placing agent concerning factors important to them in the emotional development of the youth shall be considered by the staff in the services provided.
- (c) The licensee shall assess the need for mental health services for each youth. The youth's plan of care shall include the need for mental health services and shall be developed to address the need for mental health services through a goal-directed process.
- (d) Mental health concepts, as an integral aspect of total child development, shall be included in staff training and in parent-youth conferences.

(Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)

**K.A.R. 28-4-343. Environmental standards.**

- (a) General building requirements.
  - (1) Each secure residential treatment facility shall use public water and sewage systems, or shall have private water and sewage systems approved pursuant to K.S.A. 65-163 and K.S.A. 65-165, and amendments thereto.
  - (2) A licensed architect shall be responsible for the plans for any newly constructed building or for any major addition or alteration to an existing building.
    - (A) In the case of a new building, preliminary plans and outline specifications, including plot plans, shall be submitted to the department for review before commencing the final working drawings and specifications. The licensee shall submit the final working drawings, construction specifications, and plot plans to the department for review and written approval before the letting of contracts.
    - (B) In the case of an addition or alteration to an existing building, the licensee shall submit a written statement defining the proposed use of the construction and detailing the plans and specifications to the department for review and written approval before commencing construction.



- (3) If construction is not commenced within one year of submitting a proposal for a new building or an addition or alteration to an existing building, the licensee shall resubmit the plans and proposal to the department before proposed construction begins.
- (b) Location and grounds requirements.
  - (1) Community resources, including health services, police protection, and fire protection from an organized fire department, shall be available.
  - (2) There shall be at least 100 square feet of outside activity space available per youth allowed to utilize each area at any one time.
  - (3) The outside activity area shall be free of physical hazards.
  - (4) Sufficient space for visitor and staff parking at each secure residential treatment facility shall be provided.
- (c) The water supply to each secure residential treatment facility shall be from a source approved and certified by the department. Any privately owned water supply shall be approved by the county health officer or the department.
- (d) Structural requirements.
  - (1) Facility construction shall provide for the removal of architectural barriers to disabled persons. All parts of each secure residential treatment facility shall be accessible to and usable by disabled persons.
  - (2) Each secure residential treatment facility's structural design shall facilitate personal contact and interaction between staff members and youth.
  - (3) Floors shall be smooth and free from cracks, easily cleanable, and not slippery. Floor covering for living quarters shall be required. All floor covering shall be kept clean and be maintained in good repair.
  - (4) Walls shall be smooth, easily cleanable, and sound. Lead-free paint shall be used on all painted surfaces.
  - (5) No youth's room shall be in a basement. The minimum square footage of floor space shall be 80 square feet in single rooms, and an average of no fewer than 60 square feet of floor space per person in rooms accommodating more than one person. At least one dimension of the usable floor space unencumbered by furnishings or fixtures shall be no fewer than seven feet. The minimum ceiling height shall be seven feet, eight inches over 90% of the room area. An even temperature of between 68° Fahrenheit and 78° Fahrenheit shall be maintained, with an air exchange of at least four times per hour.

- (6) Bedrooms occupied by youth shall have a window source of natural light. Access to a drinking water source and toilet facilities shall be available 24 hours a day.
- (7) Separate beds with level, flat mattresses in good condition shall be provided for each youth. Beds shall be above the floor level.
- (8) Adequate, clean bedding shall be provided for each youth.
- (9) All quarters utilized by youth shall have minimum lighting of 20 foot-candles in all parts of the room. There shall be minimum lighting of 35 foot-candles in areas used for reading, study, or other close work.
- (10) There shall be adequate space for study and recreation.
- (11) Each living unit shall contain the following:
  - (A) Furnishings that provide sufficient seating for the maximum number of youth expected to use the area at any one time;
  - (B) writing surfaces that provide sufficient space for the maximum number of youth expected to use the area at any one time;
  - (C) furnishings that are consistent with the security needs of the assigned youth; and
  - (D) adequate central storage for household supplies, bedding, linen, and recreational equipment.
- (12) If the secure residential treatment facility is on the same premises as another child care facility, the living unit of the secure residential treatment facility shall be maintained in a separate, self-contained unit. Youth of the secure residential treatment facility shall not use space shared with other child care facilities at the same time.
- (13) If a secure residential treatment facility has day rooms, the day rooms shall provide space for varied youth activities. Day rooms shall be situated immediately adjacent to the youth sleeping rooms, but separated from them by a floor-to-ceiling wall. Each day room shall provide at least 35 square feet per person, exclusive of lavatories, showers, and toilets, for the maximum number of youth expected to use the day room area at any one time.
- (14) There shall be a working telephone readily accessible to staff members in all areas of the building. Emergency numbers, including fire, police, hospital, physician, poison control facility, and ambulance, shall be posted by each phone.

- (15) The inside program and activity areas, excluding the sleeping rooms, day room, and classrooms, shall provide floor space equivalent to a minimum of 100 square feet per youth.
  - (16) Sufficient space shall be provided for contact visiting. There shall be adequately designed space to permit the screening and search of both youth and visitors. Storage space shall be provided for the secure storage of visitors' coats, handbags, and other personal items not allowed into the visiting area.
  - (17) Each room used for involuntary seclusion shall meet the following requirements for an individual bedroom:
    - (A) The walls of each room used for involuntary seclusion shall be completely free of objects.
    - (B) The door of each room used for involuntary seclusion shall be equipped with a window mounted in a manner that allows inspection of the entire room. The glass in this window shall be impact-resistant and shatterproof.
    - (C) The locking system for a room used for involuntary seclusion shall be approved by the state fire marshal or the fire marshal's designee.
  - (18) A service sink and storage area for cleaning supplies shall be provided in a well-ventilated room separate from kitchen and living areas.
- (e) Food services.
- (1) Food storage, preparation, and service shall comply with the departmental regulations governing food and lodging services.
  - (2) All foods not requiring refrigeration shall be stored at least six inches above the floor in clean, dry, well-ventilated storerooms or other approved areas with no overhead drain or sewer lines.
  - (3) Dry bulk food that is not in an original, unopened container shall be stored in metal, glass, or food-grade plastic containers with tightly fitting covers and shall be labeled.
  - (4) Poisonous or toxic materials shall not be stored with or over food. If medication requiring refrigeration is stored with refrigerated food, the medication shall be stored in a locked medicine box under all food items in the refrigerator.
  - (5) All perishables and potentially hazardous foods shall be continuously maintained at 45° Fahrenheit or lower in the refrigerator, or 10° Fahrenheit or lower in the freezer.
    - (A) Each cold storage facility shall be provided with a clearly visible, accurate thermometer.
    - (B) All foods stored in the refrigerator shall be covered.

- (C) Food not stored in the original container shall be labeled with the contents and date.
  - (D) Raw meat shall be stored under all other food items in the refrigerator before cooking.
  - (E) Adequate facilities to maintain food temperatures required in this regulation shall be available.
- (6) All dense, hot foods shall be stored in containers four or fewer inches deep.
- (7) Food preparation and service.
- (A) Each food preparation area shall be adequately equipped for the sanitary preparation and storage of food and washing of dishes and utensils. Food shall be prepared and served in a sanitary manner.
  - (B) Cooking equipment shall be kept clean and in good condition.
  - (C) Dishes shall have hard-glazed surfaces and shall be free of cracks and chips.
  - (D) Dishes, kitchen utensils, and serving equipment shall be maintained in a sanitary condition using one of the following methods:
    - (i) A three-compartment sink supplied with hot and cold running water to each compartment and a drain board for washing, rinsing, sanitizing, and air drying, with an appropriate chemical test kit for testing the sanitizing solution;
    - (ii) a domestic-type dishwasher for groups of 24 or fewer persons;
    - (iii) a commercial-type dishwasher providing a 12-second rinse with 180° Fahrenheit water, for groups of 25 persons or more;
    - (iv) other methods of sanitizing by manual or mechanical cleaning in accordance with K.A.R. 28-36-24(a) (3) and (4); or
    - (v) the use of disposable plates, cups, and plastic utensils of food-grade medium weight. Disposable table service shall be used only one time and then destroyed.
  - (E) Tables shall be in good condition and shall be washed before and after each meal. Floors shall be swept after meals.
  - (F) Meat shall be thawed using one of the following methods:
    - (i) Removing the meat from the freezer in advance and putting it in the refrigerator to thaw;

- (ii) placing the meat under running, tepid water 72° Fahrenheit until thawed; or
  - (iii) thawing in the microwave as part of the cooking process.
- (8) Sanitary conditions.
  - (A) Only authorized persons shall be in the kitchen.
  - (B) Each kitchen shall be equipped with separate hand-washing facilities. Personnel shall wash their hands before handling food and after working with raw meat.
  - (C) Hair shall be restrained.
  - (D) No staff member with any open wounds or infections shall be involved in food preparation or service.
  - (E) Clean and soiled linen shall be properly stored in the kitchen area.
  - (F) All trash cans in the restroom used by the kitchen staff shall be covered.
- (9) Food safety.
  - (A) All dairy products shall be pasteurized. Dry milk shall be used for cooking only.
  - (B) Home-canned foods, other than jams and jellies, and home-frozen foods shall not be served.
  - (C) Commercially canned food from dented, rusted, bulging, or leaking cans, and food from cans without labels shall not be used.
- (10) Nutrition.
  - (A) Meals and snacks shall meet the nutritional needs of the youth in accordance with recommended dietary allowances. A sufficient quantity of food shall be prepared for each meal to allow each youth second portions of vegetables, fruit, bread, and milk.
  - (B) Special diets shall be provided for youth, if medically indicated, or to accommodate religious practice, as indicated by a religious consultant.
  - (C) Menus shall be planned one week in advance. Copies of the menus for the preceding month shall be kept on file and available for inspection.

- (11) If meals are catered, the following requirements shall be met:
  - (A) The meals shall be obtained from sources licensed by the department.
  - (B) Food shall be transported in covered and temperature-controlled containers. Hot foods shall be maintained at not less than 140° Fahrenheit, and cold foods shall be maintained at 45° Fahrenheit or less.
- (f) Toilets and lavatories.
  - (1) For each eight or fewer youth of each sex, there shall be at least one toilet, one lavatory, and either a bathtub or a shower. All toilets shall be above floor level.
  - (2) Each bathroom shall be ventilated. Each inside bathroom shall have a mechanical ventilating system to the outside, with a minimum of 10 air changes per hour.
  - (3) Toilet and bathing facilities and drinking water shall be convenient to sleeping quarters and living and recreation rooms.
  - (4) Cold and hot water, not exceeding 120° Fahrenheit, shall be supplied to lavatories, bathtubs, and showers.
  - (5) Toilet facilities and drinking water shall be convenient to the reception and admission areas.
  - (6) Locked sleeping rooms shall be equipped with a drinking fountain, lavatory, and toilet, unless a communication system or procedure is in effect to give the resident immediate access to a lavatory, toilet, and drinking water.
- (g) Laundry.
  - (1) If laundry is done at the secure residential treatment facility, laundry fixtures shall be located in an area separate from food preparation areas and shall be installed and used in a manner that safeguards the health and safety of the youth.
  - (2) Soiled linen shall be stored separately from clean linen.
  - (3) Blankets shall be laundered or sanitized before reissue.
  - (4) Blankets, when used with sheets, shall be laundered at least once each month.
  - (5) Mattresses shall be water-repellent and washed down and sprayed with disinfectant before reissue. Mattress materials and treatments shall meet state fire marshal regulations.

- (6) Adequate space shall be allocated for the storage of clean and dirty linen and clothing. If an in-house laundry service is provided, adequate space shall be allocated for the laundry room and the storage of laundry supplies, including locked storage for chemical agents used in the laundry area.
- (h) Building maintenance standards.
  - (1) Each building shall be clean at all times and free from accumulated dirt, vermin, and rodent infestation.
  - (2) Floors and walking surfaces shall be kept free of hazardous substances at all times.
  - (3) A schedule for cleaning each building shall be established and maintained.
  - (4) Floors shall be swept and mopped daily.
  - (5) Washing aids, including brushes, dish mops, and other hand aids used in dishwashing activities, shall be clean and used for no other purpose.
  - (6) Mops and other cleaning tools shall be cleaned and dried after each use and stored in a well-ventilated place on adequate racks.
  - (7) Insecticides, rodent killers, and other poisons shall be used under careful supervision. These and other poisons shall be stored in a locked area.
  - (8) Toilets, lavatories, sinks, and other such facilities in the living quarters shall be cleaned thoroughly each day.

(Authorized by and implementing K.S.A. 1998 Supp. 65-508; effective, T-28-7-8-99, July 8, 1999; effective November 5, 1999.)